
October 25, 2004

TO: Planning Commission

FROM: K. Marlene Conaway, Director *KMC*

RE: Comprehensive Plan and Land Development Regulations Amendments
Tier Maps, ROGO, NROGO, Environmental, Land Acquisition

November 3, 2004 will be the Planning Commission's fourth Public Hearing date for the proposed amendments to implement Goal 105 and the Florida Keys Carrying Capacity Study. The Planning Commission also had a workshop in June. In addition, staff met with the contractors and representatives of community and environmental groups over the summer and conducted two community workshops in October on the Tier Maps.

Staff has made changes to the proposed Plan and Code based on community input and Planning Commission direction. In addition the amendment package has been edited – thank you Jim. Most of the changes are to the ROGO and NROGO sections of the package. One change is being made to the Tier Map in the upper Keys an area was mistakenly changed to Tier II from Tier I on the maps in your Tier Report. The lots are small, within mapped endanger species habitat and zoned SR.

Staff is confident that the proposed amendment package is now complete and reflects the changes indicated by the Planning Commission. Clear directions are still needed on whether the Planning Commission can support the Hybrid system or not. Hopefully the Planning Commission will be able to recommend the package and the map amendment to the Board of County Commissioners at this meeting.

Changes to the proposed Amendments to the 2010 Comprehensive Plan include:

Policy 101.5.4 (ROGO)

1. Increased the points for Tier III applicants from +25 to +30 points.
4. Increased the points for dedicating one acre of land from +3 to +4 points and added Tier III lots for dedication for the purpose of affordable housing.
9. Created a provision for receiving up to +3 points for payment into a fund for the purchase of land for conservation.

Policy 101.5.5 (NROGO)

7. Deleted the reference to xeriscape and rewrote the language.

9. Created a provision for positive points for providing employee housing on the same site as a non-residential use. (+2 per unit - a maximum of +4).
10. Created a provision for receiving up to +3 points for payment into a fund for the purchase of land for conservation.

ROGO and NROGO Comprehensive Plan Policies for ROGO and NROGO (hybrid) are the same as above. An additional change specific to the lottery is to increase the minimum points to be eligible for the lottery to +30.

LDR Changes to ROGO and NROGO Amendment

All changes are made to reflect the changes in the Comprehensive Plan amendments above. The following changes were also included:

Section 9.5-122.3(a)(2)

Rewords the section to make it clear that to be eligible for Administrative Relief an applicant must be considered in the first 4 consecutive annual allocation periods.

Section 9.5-122.4 (j)

Details how the monetary value for payment to land acquisition fund will be calculated based on the value of privately owned vacant platted lots divided by four.

Section 9.5-266(a)(5)

All commercial development, which includes employee housing in their development plan, are permitted to exclude a portion of the non-residential floor area from the density calculations.

Section 9.5-266(f)(1)

Gives the Growth Management Director the authority to approve restrictive covenants for affordable and employee housing.

Additional LDR Changes to ROGO for the Lottery

Section 9.5-122 (a)(6)a.

Decreases to 20% the minimum percentage of market rate for the the lottery.

PROPOSED AMENDMENTS TO THE
LDRS TO ADD A TIER SYSTEM
OVERLAY DISTRICT

DRAFT
OCTOBER 25, 2004

**PROPOSED AMENDMENT TO THE LDRS
TO ADD A TIER SYSTEM OVERLAY DISTRICT**

AMENDMENT # 1

Renumber existing 9.5-256 Aggregation to 9.5-271

AMENDMENT # 2

Add new Section 9.5-256 as follows:

Sec. 9.5-256. Tier overlay district

(a) Purpose: The purpose of this Tier Overlay District is to designate geographical areas outside of mainland Monroe County into one of three tiers to assign ROGO and NROGO points, determine the amount of clearing of upland native vegetation that may be permitted, and prioritize lands for public acquisition.

(b) Criteria: The Tier boundaries are designated using aerial photography, data from the Florida Keys Carrying Capacity Study, the endangered species maps, property information and field evaluation. The following criteria at a minimum are used to evaluate upland habitats and designate boundaries between different Tier Overlays:

(1) Criteria for designating lands as Tier I:

- a. Natural areas including old and new growth upland native vegetated areas, above four (4) acres and a buffer of privately owned vacant lots and parcels.
- b. Vacant land to connect patches and reduce further fragmentation.
- c. A buffer, up to five-hundred (500) feet if indicated, between natural areas and development to reduce secondary impacts; canals or roadways, depending on size may form a boundary.
- d. Lands designated for acquisition by public agencies.
- e. Known locations of threatened and endangered species.
- f. Native Area Land Use district and other districts in buffer/restoration area as appropriate.
- g. Lands with a potential for successful land management-restoration of disturbed habitat, removal of exotics, and connection of patches.
- h. Areas with minimal existing development.

(2) Criteria for designating lands as Tier II:

- a. Subdivisions less than fifty (50) percent developed, or portions of subdivisions that are less than fifty (50) percent developed because of environmental constraints.
- b. Fragmented, unconnected hammock patches of less than 4 acres, which are isolated from larger natural areas by existing development.
- c. Developed and undeveloped SR and SS lots with upland native habitat.
- d. Platted lots in areas where adjoining property owner(s) may purchase the lots with county participation.

(3) Criteria for designating lands as Tier III:

- a. Isolated upland habitat fragments of less than half an acre.
- b. Substantially developed subdivisions near established commercial areas.
- c. Primarily IS and URM lots.
- d. Developed non-residential and mixed used areas.

(c) Tier Overlay Map Amendments: The Tier Overlay District Maps may be amended to reflect existing conditions in an area if warranted because of drafting or data errors or changed conditions. Tier Overlay Map amendments shall be made pursuant to the procedures for map amendments to this chapter. Unlawful conditions shall not be recognized when determining existing conditions and regulatory requirements.

PROPOSED AMENDMENTS TO THE
COMPREHENSIVE PLAN TO
IMPLEMENT REVISIONS TO ROGO
AND NROGO
[COMPETITIVE ROGO OPTION]

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**PROPOSED AMENDMENTS TO
THE COMPREHENSIVE PLAN TO
IMPLEMENT REVISIONS TO ROGO
AND NROGO
[COMPETITIVE ROGO OPTION]**

AMENDMENT #1

Amend Policy 101.2.3 as follows:¹

Policy 101.2.3

The Permit Allocation System for new residential (ROGO) development shall specify procedures for:

1. annual adjustment of the number of permits for new residential units to be issued during the next year based upon, but not limited to the following:
 - a. ~~the number of permits for new residential units issued during the previous year, including permits which did not result in completed units or active progress towards such completion as defined by the Land Development Regulations; and~~
 - b. ~~application of the updated transportation model of the Lower Southeast Florida Hurricane Evacuation Study every five years or when warranted by implementation of roadway capacity improvements, new behavioral data, or substantial changes in development patterns (see Conservation and Coastal Management Element Policy 216.1.5);~~
 - a. expired allocations and building permits in previous year;
 - b. allocations available, but not allocated in previous year;
 - c. number of allocations borrowed from future quarters;
 - d. vested allocations;
 - e. modifications required or provided by this plan or agreement pursuant to Chapter 380, Florida Statutes;

¹ Except where further noted, these revisions reflect the updates made to ROGO since the comprehensive plan was adopted and revises the apparent conflict in the text of point 2 with the content of Policy 101.2.4. Rather than allocating between single and multi-family unit types, allocations are by affordable and market rate housing.

- f. receipt or transfer of affordable housing allocations by intergovernmental agreement; and
2. allocation of single and multi-family unit types affordable and market rate housing units in accordance with Policy 101.2.4; and
3. timing of the acceptance of applications, evaluation of applications, and issuance of permits for new residential development during the calendar year.

AMENDMENT #2

Amend Policy 101.2.4 as follows:²

Policy 101.2.4

Monroe County shall allocate at least 20 percent of residential (non-transient) growth to affordable housing units as part of the Permit Allocation System. Any portion of the 20 percent allocation not used for affordable housing shall be retained and be made available for affordable housing from ROGO year to ROGO year. Affordable housing eligible for this separate allocation ~~must~~ shall meet the criteria specified in Policy 601.1.7. and shall not be subject to the Residential Permit Allocation and Point System in Policy 101.5.4. The parcel proposed for affordable housing development shall not be located ~~in an acquisition area and shall not qualify for negative points according to the criteria specified under Habitat Protection and Threatened or Endangered Animal Species in Policy 101.5.4; however, properties designated Residential High shall be exempted from this prohibition, within an area designated as Tier I as set forth under Goal 105.~~

AMENDMENT #3

Amend Policy 101.3.1 as follows:³

Policy 101.3.1

Monroe County shall maintain a balance between residential and non-residential growth by limiting the gross square footage of non-residential development ~~over the 15-year planning horizon in order to~~ maintain a ratio of approximately 239 square feet of new non-residential development for each new residential unit permitted through the Residential Permit Allocation System. This ratio may be modified from time to time through amendments to the land development regulations based upon market and other relevant studies as required by policy 101.3.5. ~~The ratio for commercial allocation shall be revised upon completion of the economic baseline analysis required by policy 101.3.5 which shall be completed no later than January 4;~~

² This revision reflects that affordable housing will no longer compete under ROGO, but will still be subject to the limits on number of affordable ROGO allocations that can be awarded. In addition, the revision reflects the elimination of negative environmental point categories in ROGO with the use of the Tier system.

³ Amendments to this policy are intended to provide the basis for making amendments to the floor space to dwelling unit ratio as needed to accommodate changing needs and policies. The County has already had one study completed concerning market demand for non-residential development and shortly the results of more in-depth report on market demand and needs for non-residential floor area will be completed.

~~1997. The commercial allocation allowed by this policy shall be uniformly distributed over the 15 year planning horizon on an annual basis, consistent with the Residential Permit Allocation System as set forth in Policy 101.2.1. Within one year of the effective date of this plan, Monroe County shall amend this policy to specify the annual allowable square footage based upon the number of residential units allowed by year using the ratio set forth in this policy.~~

AMENDMENT #4

Amend Policy 101.3.3 as follows:⁴

Policy 101.3.3

The Permit Allocation System for new non-residential (NROGO) development shall specify procedures for:

1. the annual adjustment of the square footage allocated for ~~of~~ new non-residential development to be permitted during the next year based upon, but not limited to:
 - a) the square footage ~~of~~ allocated for new non-residential development ~~completed that expired~~ during the previous year;
 - ~~b) strict regulations regarding completion schedules of permitted activities shall be developed and enforced to preclude repeated renewal of expired permits; and~~
 - b) the amount of square footage available for allocations but not allocated in previous year;
 - c) modifications required or provided by this plan; and,
 - d) receipt or transfer of floor area by intergovernmental agreement.
2. maintaining a ratio of approximately 239 square feet of new non-residential development for each new residential unit permitted through the Permit Allocation System, as may be amended from time to time in accordance with Policy 101.3.1; and,
3. timing of the acceptance of applications, evaluation of applications, and issuance of permits for new non-residential development during the calendar year.

⁴ This policy has been revised to make the policy direction more concise and clear and to reflect other revisions to NROGO proposed in this amendment package.

AMENDMENT #5

Amend Policy 101.3.4 as follows:⁵

Policy 101.3.4

Public facilities shall be exempted from the requirements of the Permit Allocation System for new non-residential development. Except within Tier I designated areas under Goal 105, ~~Certain~~ development activity by federally tax-exempt not-for-profit educational, scientific, health, religious, social, cultural, and recreational organizations may be exempted from the Permit Allocation System by the Board of County Commissioners after review by the Planning Commission upon a finding that such activity will predominately serve the County's non-transient population. All public and institutional uses that predominately serve the County's non-transient population and which house temporary residents shall be included in the Permit Allocation System for residential development, except upon factual demonstration that such transient occupancy is of such a nature so as not to adversely impact the hurricane evacuation clearance time of Monroe County.

AMENDMENT #6

Amend Policy 101.3.5 as follows:⁶

Policy 101.3.5

By ~~January 4, 1998~~ July 2005, Monroe County shall complete ~~a an economic base analysis market demand analysis and economic assessment in order to determine the demand for future non-residential development in Monroe County and planning sub-areas.~~ The non-residential development allocation and Future Land Use Map (FLUM) designations for non-residential uses ~~shall be~~ may be revised based upon the results of this study, and other relevant policy and economic studies and data and provide the basis for preparing specific amendments to the comprehensive plan to incorporate goals, objectives and policies on economic development including tourism. The ~~economic base~~ analysis will address existing non-residential uses, vacancy rates, economic trends and demand for non-residential uses by planning sub-area.

AMENDMENT #7

Amend Policy 101.4.21 by adding (i) under "Notes" in the table entitled "Future Land Use Densities and Intensities" that reads as follows:

- (i) The Maximum Net Density is the maximum density allowable with the use of TDRs.

⁵ This revision reflects recent amendments to LDRs to preclude exemptions for not-for-profits within Conservation and Natural Areas (Tier I).

⁶ This amendment reflects the current market and economic strategy study being completed by the Chesapeake Group, which will provide the basis for making changes in future land use designations and in eventual preparation of economic development policies for the County as an integral part of the Comprehensive Plan.

AMENDMENT #8

Amend Objective 101.5 as follows:⁷

Objective 101.5

Monroe County shall implement a Point System based primarily on the Tier system of land classification in accordance with Goal 105, which directs future growth in order to:

1. encourage the redevelopment and renewal of blighted areas [9J-5.006(3)(b)2];
2. maintain and enhance the character of the community [9J-5.006(3)(b)3];
3. protect natural resources [9J-5.006(3)(b)4];
4. encourage a compact pattern of development [9J-5.006(3)(b)7]; ~~and~~
5. encourage the development of affordable housing; and,
6. encourage development in areas served by central wastewater treatment systems.⁸

AMENDMENT #9

Amend Policy 101.5.1 as follows:⁹

Policy 101.5.1

~~By January 4, 1997,~~ Monroe County shall adopt through its land development regulations a new Point System for residential (ROGO) and non-residential (NROGO) development to replace the existing Point System by no later than July 1, 2005. Except for affordable housing, this Point System, as set forth in Policy 101.5.4 for residential development and Policy 101.5.5 for non-residential development, ~~which~~ shall be used as a basis for selecting the development applications which are to be issued permits through the Permit Allocation System (see Policy 101.2.1). The Point System shall specify positive point factors which shall be considered as assets and shall specify negative point factors which shall be considered as liabilities in the evaluation of applications for new residential and non-residential development.

⁷ This revision reflects the incorporation of the Tier system as the framework for implementing the point system.

⁸ This revision reflects the incorporation of positive points in the permit allocation system for development to be connected to an existing central wastewater treatment system.

⁹ This revision updates the Policy and reflects the shift away from using negative points in ROGO. It establishes a one-year time frame for its completion.

AMENDMENT #10

Amend Policy 101.5.2 as follows:¹⁰

Policy 101.5.2

In order to encourage a compact form of residential growth, ~~the Point System shall assign positive point ratings to applications for new residential development which would that results~~ in infill development in platted, improved subdivisions, the Point System shall be primarily based on the Tier system of land classification as set forth under Goal 105. [9J-5.006(3)(c)1 and 6]

AMENDMENT #11

Amend Policy 101.5.3 as follows:¹¹

Policy 101.5.3

In order to encourage a compact form of non-residential growth, the Permit Allocation System shall limit and direct the amount of new non-residential development primarily to areas designated as Tier III under Goal 105 and provide incentives for redevelopment of existing developed and vacant infill sites. (See Policy 101.3.1.) [9J-5.006(3)(c)1]

AMENDMENT #12

Delete existing Policy 101.5.5 and create a new Policy 101.5.4 that reads as follows:

Policy 101.5.4

Monroe County shall implement the residential Permit Allocation and Point System through its the land development regulations based primarily on the Tier system of land classification as set forth under Goal 105. The points are intended to be applied cumulatively.

- 1. Tier Designation -** Utilizing the Tier System for land classification in Policy 105.2.1, the following points shall be assigned to allocation applications for proposed dwelling units in a manner that encourages development of infill, predominately developed areas with existing infrastructure and few sensitive environmental features and discourages development in areas with

¹⁰ This revision reflects the use of the Tier system for directing growth to specific areas. The Tier system takes into account consideration of habitat, threatened and endangered species and availability of infrastructure and services through its classification of properties into Tiers. The current system awards many properties within platted subdivisions that are within environmentally sensitive habitat or have impacts on endangered and threatened species.

¹¹ The existing policy fails to adequately provide broad guidance to promote compact development and needs to be amended to incorporate the Tier System.

environmentally sensitive upland habitat, which must be acquired or development rights retired for resource conservation and protection.¹²

<i>Points</i>	<i>Criteria:</i>
0	Proposes a dwelling unit within areas designated Tier I [Natural Area].
+10	Proposes development within areas designated Tier II [Transition and Sprawl Reduction Area] on Big Pine or No Name Key.
+20	Proposes development within areas designated Tier II [Transition and Sprawl Reduction Area] outside of Big Pine or No Name Key.
+20	Proposes development within areas designated Tier III [Infill Area] on Big Pine or No Name Key.
+30	Proposes development within areas designated Tier III [Infill Area] outside of Big Pine or No Name Key.

2. **Big Pine and No Name Keys** - The following negative points shall be cumulatively assigned to allocation applications for proposed dwellings to implement the Big Pine Key and No Name Key Habitat Conservation Plan and the Livable CommuniKeys Community Master Plan.

<i>Point Assignment:</i>	<i>Criteria:</i>
-10	Proposes development on No Name Key.

¹² The Tier system is intended to provide the underlying base for directing growth under the revised ROGO system. Rather than using negative points, the system uses a positive point approach which is legally more defensible than one relying on negative scoring.

-10	Proposes development in designated Lower Keys Marsh Rabbit habitat or buffer areas as designated in the Community Master Plan.
-10	Proposes development in Key Deer Corridor as designated in the Community Master Plan.

3. **Lot Aggregation** – The following points shall be assigned to allocation applications to encourage the voluntary reduction of density through aggregation of legally platted buildable lots within Tier II and Tier III areas.¹³

<i>Point Assignment:</i>	<i>Criteria:</i>
+4	Proposes to aggregate a contiguous vacant, legally platted lot within a Tier II or Tier III area with sufficient lot size and upland area to be buildable together with the parcel proposed for development.
+4	Each additional contiguous vacant, legally platted lot which is aggregated in Tier II or III area that meets the aforementioned requirements will earn additional points as specified.

¹³ The revised lot aggregation system is similar to existing system except scoring has been changed to reflect overall changes in scoring. Tier I areas are not eligible for aggregation and Policy 205.2.7 limits aggregation points if clearing of upland native vegetation occurs in Tier II areas.

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4. **Land Dedication** – The following points shall be assigned to allocation applications to encourage the voluntary dedication of vacant, buildable land within Tier I and Tier II designated areas and certain legally, platted lots and unplatted parcels in Tier I that are of insufficient size to be buildable for the purposes of conservation, resource protection, restoration or density reduction and, if located in Tier II or Tier III, for the purpose of providing land for affordable housing where appropriate.¹⁴

<i>Point Assignment:</i>	<i>Criteria:</i>
+4	Proposes dedication to Monroe County of one vacant, legally platted lot of sufficient minimum lot size and upland area to be buildable. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+1 for each 5,000 square feet of lot size	Proposes dedication to Monroe County of a vacant, legally platted lot of 5,000 square feet or more in size, designated as Residential Low with a maximum net density within a Tier I area and containing sufficient upland area to be buildable. Each additional vacant, legally platted lot that meets the

¹⁴ The land dedication scoring has been completely revised to reflect change in scoring and to allow more flexibility in the sizes of property that may be dedicated. A major change has been to allow currently NA, SR and SR-L lots, which are currently unbuildable due to lot size, to be eligible for ROGO dedication. In addition, this policy spells out that lots dedicated in Tier II or Tier III may be used by the County for providing land for affordable housing, where appropriate.

	aforementioned requirements will earn points as specified.
+0.5	Proposes dedication to Monroe County of one (1) vacant, legally platted lot of at least 5,000 square feet in size within a Tier I area, designated as Residential Conservation, or Residential Low with no maximum net density, containing sufficient upland to be buildable. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+4	Proposes dedication to Monroe County of at least one (1) acre of vacant, unplatted land located within a Tier I area containing sufficient upland to be buildable. Each additional one (1) acre of vacant, unplatted land that meets the aforementioned requirements will earn points as specified.

5. Market Rate Housing in Employee or Affordable Housing Project-
The following points shall be assigned to allocation applications for market rate housing units in an employee or affordable housing project:¹⁵

¹⁵ This policy is intended to provide more incentives to build affordable housing by encouraging the mixture of affordable housing with market rate housing.

<i>Point Assignment:</i>	<i>Criteria:</i>
+3	Proposes a market rate housing unit which is part of an affordable or employee housing project; both affordable and employee housing shall meet the policy guidelines for income in Policy 601.1.7 and other requirements pursuant to the Land Development Regulations.

6. **Special Flood Hazard Areas** – The following points shall be assigned to allocation applications for proposed dwelling unit(s) to provide a disincentive for locating within certain coastal high flood hazard areas:¹⁶

<i>Point Assignment:</i>	<i>Criteria:</i>
-4	Proposes development proposed within “V” zones on the FEMA flood insurance rate maps.

7. **Central Wastewater System Availability** – The following points shall be assigned to allocation applications:¹⁷

<i>Point Assignment:</i>	<i>Criteria:</i>
+4	Proposes development required to be connected to a central wastewater treatment system that meets the BAT/AWT treatment standards established

¹⁶ This revision eliminates the negative points for “A” zone, in which the predominate number of properties are located and the positive points for “X” zones that only affect a very insignificant number of properties.

¹⁷ This scoring incentive is intended to: encourage infill development in areas served by central sewer systems being upgraded or constructed to meet 2010 Wastewater Treatment Standards; maximize public investment; reduce the average EDU operating/maintenance costs of these systems; and recoup capital costs.

	by Florida Legislature and Policy 901.1.1.
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8. **Perseverance Points** – One (1) to two (2) points shall be awarded for each year that the allocation application remains in the allocation system.
9. **Payment to the Land Acquisition Fund** – Up to three (3) points shall be awarded for a monetary payment by the applicant to the County's land acquisition fund for the purchase of lands for conservation, affordable housing, and retirement of development rights. The monetary value of each point shall be set annually by the County based upon the average ad valorem valuation of all vacant privately-owned IS/URM zoned platted lots on the current Monroe County Real Property Tax Roll.¹⁸

AMENDMENT #13

Delete Policy 101.5.5 in its entirety and replace with new Policy 101.5.5 that reads as follows:

Policy 101.5.5

Monroe County shall implement the non-residential Permit Allocation and Point System through its land development regulations based primarily on the Tier system of land classification pursuant to Goal 105. The points are intended to be applied cumulatively.

1. **Tier Designation** – Utilizing the Tier System for land classification in Policy 105.2.1, the following points shall be assigned to allocation applications for proposed non-residential in a manner that encourages development of infill, predominately developed areas with existing infrastructure, commercial concentrations, and few sensitive environmental features, and discourages development in areas with

¹⁸ The purchase of points incentive is intended to help restrain the escalating costs of lots eligible for dedication under ROGO, reduce the problems average applicants have in purchasing lots eligible for ROGO dedication, and to augment existing funding sources for purchase of lands for conservation, affordable housing and retirement of development rights. The average value privately owned vacant IS/URM platted lots is \$28,990. The maximum number of points that can be purchased through donation to the Land Acquisition Fund is limited to encourage dedication of lots as the preferred method for land acquisition. The calculation procedures for determining monetary value for a point will be established in LDRs. Basically, the average ad valorem value of privately owned vacant IS/URM platted lots will be divided by four (points awarded for dedication of a platted lot) to fixed the per point monetary figure.

environmentally sensitive upland habitat, which must acquired or development rights retired for resource conservation and protection:¹⁹

<i>Point assignment:</i>	<i>Criteria:</i>
0	Proposes non-residential development within an area designated Tier I [Natural Area]
+10	Proposes non-residential development within an area designated Tier II [Transition and Sprawl Reduction Area].
+20	Proposes non-residential development within an area designated Tier III [Infill Area].

2. **Intensity Reduction.** The following points shall be assigned to allocation applications to encourage the voluntary reduction of intensity:

<i>Point assignment:</i>	<i>Criteria:</i>
+ 4	An application proposes development that reduces the permitted floor area ratio (FAR) to twenty three percent (23%) or less.

3. **Land Dedication** - The following points shall be assigned to allocation applications to encourage the voluntary dedication of vacant, buildable land within Tier I and Tier II designated areas and certain legally platted lots and unplatted parcels in Tier I that are of insufficient size to be buildable for the purposes of conservation, resource protection, restoration or density reduction and, if located in Tier II or Tier III, for the purpose of providing land for affordable housing where appropriate.²⁰

¹⁹ The Tier System is intended to provide the underlying basis for directing growth under the revised NROGO system. Rather than using negative points, the system relies on a positive approach, which is legally more defensible than one relying on negative scoring.

²⁰ The land dedication scoring has been completely revised to reflect change in scoring and to allow more flexibility in the sizes of property that may be dedicated. A major change has been to allow currently NA, SR and SR-L lots, which are currently unbuildable due to lot size, to be eligible for ROGO dedication. In addition, this regulation spells out that lots dedicated in Tier II or Tier III may be used by the County for providing land for affordable housing, where appropriate. It should be noted that under NROGO platted lots will receive the same scoring as permitted under ROGO, which is currently not the case.

<i>Point assignment:</i>	<i>Criteria:</i>
+4	Proposes dedication to Monroe County of one (1) vacant, legally platted lot of sufficient minimum lot size and upland area to be buildable. Each additional vacant, legally platted, buildable lot which is dedicated that meets the aforementioned requirements will earn the additional points as specified.
+1 per 5,000 square feet of lot area	Proposes dedication to Monroe County of a vacant legally platted lot of five thousand (5,000) square feet or more in size, designated as Residential Low with maximum net density within a Tier I area and containing sufficient upland to be buildable. Each additional vacant, legally platted lot, that meets the aforementioned requirements will earn points as specified.
+0.5	Proposes dedication to Monroe County of one (1) vacant, legally platted lot of five thousand (5,000) square feet or more within a Tier I area designated as Residential Conservation, or Residential Low with no maximum net density, containing sufficient upland to be buildable. Each additional vacant, legally platted, lot that meets the aforementioned requirements will earn points as specified.
+4	Proposes dedication to Monroe County of at least one (1) acre of vacant, unplatted land located within a Tier I area containing sufficient upland to be buildable. Each additional one (1) acre of vacant, unplatted land that meets the aforementioned requirements will earn the points as specified.

4. **Special Flood Hazard Area** - The following points shall be assigned to allocation applications to discourage development within high risk special flood hazard zones:²¹

<i>Point assignment:</i>	<i>Criteria:</i>
- 4	Proposes development within a "V" zone on the FEMA Flood Insurance Rate Map.

²¹ Negative points for special flood hazards have been revised similar to those for ROGO.

5. **Perseverance Points** - One (1) or two (2) points shall be awarded for each year that the allocation application remains in the system.
6. **Highway Access** - The following points shall be assigned to allocation applications to encourage connections between commercial uses and reduction of the need for trips and access onto U.S. Highway 1.²²

<i>Point assignment:</i>	<i>Criteria:</i>
+3	The development eliminates an existing driveway or access-way to U.S. Highway 1.
+2	The development provides no new driveway or access-way to U.S. Highway 1.

7. **Landscaping and Water Conservation** - The following points shall be assigned to allocation applications to encourage the planting of native vegetation and promote water conservation:

<i>Point assignment:</i>	<i>Criteria:</i>
+3	The project provides a total of two hundred percent (200%) of the number of native landscape plants on its property than the number of native landscape plants required by this chapter within landscaped bufferyards and parking areas.
+1	Twenty-five percent (25%) of the native plants provided to achieve the three (3) point award above or provided to meet the landscaped bufferyard and parking area requirements of this chapter are listed as threatened or endangered plants native to the Florida Keys.
+2	Project landscaping is designed for water conservation such as use of one hundred percent (100%) native plants for vegetation, collection and direction of rainfall to landscaped areas, or the application of re-used wastewater or treated seawater for watering landscape plants.

8. **Central Wastewater System Availability** – The following points shall be assigned to allocation applications:²³

²² The scoring criteria for access has been thoroughly revised to better effectuate the intent of this scoring policy.

²³ This scoring incentive is intended to: encourage infill development in areas served by central sewer systems being upgraded or constructed to meet 2010 Wastewater Treatment Standards; maximize public investment; reduce the average EDU operating/maintenance costs of these systems; and recoup capital costs.

<i>Point Assignment:</i>	<i>Criteria:</i>
+4	Proposes development required to be connected to a central wastewater treatment system that meets the BAT/AWT treatment standards established by Florida Legislature and Policy 901.1.1.

9. **Employee Housing** – The following points, up to a maximum of four (4), shall be assigned to allocation applications for employee housing units.²⁴

<i>Point Assignment:</i>	<i>Criteria:</i>
+2	Proposes an employee housing unit which is located on a parcel with a non-residential use.
+2	One (1) additional employee housing unit located on the parcel with a non-residential use

10. **Payment to the Land Acquisition Fund** – Up to three (3) points shall be awarded for a monetary payment by the applicant to the County's land acquisition fund for the purchase of lands for conservation and affordable housing and retirement of development rights. The monetary value of each point shall be set annually by the County based upon the average ad valorem valuation of all vacant privately-owned IS/URM zoned platted lots on the current Monroe County Real Property Tax Roll.²⁵

²⁴ This provision is intended to encourage mixed commercial-residential development and to provide additional incentives to encourage the provision of affordable employee housing.

²⁵ The purchase of points incentive is intended to help restrain the escalating costs of lots eligible for dedication under ROGO, reduce the problems average applicants have in purchasing lots eligible for ROGO dedication, and to augment existing funding sources for purchase of lands for conservation, affordable housing and retirement of development rights. The current average ad valorem value of privately owned vacant IS/URM platted lots is \$28,990. The maximum number of points that can be purchased through donation to the Land Acquisition Fund is limited to encourage dedication of lots as the preferred method for land acquisition. The monetary value would be based on dividing the average ad valorem value of all privately
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AMENDMENT #14

Amend Policy 101.5.6 to read as follows.²⁶

Policy 101.5.6

~~The Residential and Non-residential Point Systems shall be monitored on an annual basis and revised as necessary to add, delete or adjust positive and negative factors based on new studies and data in a manner that is consistent with and furthers the goals, policies, and objectives of this plan. which may be identified by studies prepared as part of the implementation of the Goals, Objectives and Policies of the Comprehensive Plan. Such adjustments to the Point Systems shall result in amendments to the Comprehensive Plan and/or land development regulations as appropriate. These studies include, but are not limited to:~~

- ~~1. the Sanitary Wastewater Master Plan (see Sanitary Wastewater Objective 901.4 and related policies);~~
- ~~2. the Stormwater Management Master Plan (see Drainage Objective 1001.3 and related policies);~~
- ~~3. the Florida Keys National Marine Sanctuary Management Plan;~~
- ~~4. special studies undertaken as part of the Florida Keys National Marine Sanctuary Water Quality Protection Program (see Conservation and Coastal Management Objective 202.1 and related policies);~~
- ~~5. the Live Aboard Study (see Conservation and Coastal Management Objective 202.4 and related policies);~~
- ~~6. the Florida Keys Advance Identification of Wetlands (ADID) Program (see Conservation and Coastal Management Objective 204.1 and related policies);~~

AMENDMENT #15

Delete Policy 101.5.7 and 101.5.8.²⁷

Policy 101.5.7

~~As part of the first annual review of the Residential and Non-residential Point Systems, additional criteria may be included such as:~~

owned vacant IS/URM platted lots by four (points awarded for dedication of a platted lot) to determine the per point monetary figure.

²⁶ This existing policy is no longer relevant and has been replaced with new Tier based system and Livable CommuniKeys community master planning process. The policy has been replaced with a broader policy that calls for updates and revisions to the permit allocation system as needed.

²⁷ These two policies are no longer relevant with the revisions to the ROGO system based on the Tier system and increased emphasis on lot dedication and density reduction.

1. ~~North Key Largo~~ Negative points may be assigned for development proposed within that portion of Key Largo located between the junction of State Road 905 and U.S. Highway 1 and the Dade County boundary at Angelfish Creek.
2. ~~Traffic Capacity~~ As part of the first annual review of the Residential and Non-residential Point System, positive points may be assigned for development served by US 1 segments which have surplus capacity. Negative points shall be assigned for development served by US 1 segments which have marginal capacity.
3. ~~Offshore Islands~~ Negative points may be assigned to developments on offshore islands.
4. ~~Conservation Lands~~ Negative points may be assigned to developments which may impact designated or proposed conservation lands.
5. ~~Disturbed Saltmarsh and Buttonwood Wetlands~~ Negative points may be assigned to developments which require the placement of fill or structures in disturbed saltmarsh and buttonwood wetlands.
6. ~~Historic Resources~~ Negative points may be assigned to developments which remove or destroy historic or archaeological resources. Positive points may be assigned to developments which restore or enhance historic or archaeological resources.
7. ~~Potential Development Credits (PDCs)~~ An applicant may have the option of receiving positive points, called Potential Development Credits (PDCs), for transferring development rights away from a sender site for development proposed on an eligible receiver site, as specified in Objective 101.13 and related policies.

Policy 101.5.8

The Residential Permit Allocation Ordinance shall be amended to award a graduated scale of positive points to dwelling units which are proposed for lots within legally platted, recorded subdivisions, which are served by existing infrastructure, including at a minimum potable water, electricity and paved roadways. Maximum points shall be awarded for those projects proposed within platted subdivisions which are 67% to 100% built out; fewer points will be awarded for projects proposed for subdivisions 33%–67% built out; and minimum points shall be awarded for projects proposed for subdivisions 0–33% built out. The percentage of build out shall be based upon updated, accurate data from the County's Geographic Information System (GIS). The Ordinance shall be amended when the pertinent information is readily available on the County's GIS.

AMENDMENT #16

Amend and renumber Policy 101.5.9 as follows:²⁸

Policy 101.5.9101.5.7

Monroe County shall allow for the development of residential ~~multi-family~~ projects with multiple units within the Permit Allocation System. If a project ranks high enough in the Point System for a portion of the development to receive an allocation award, but the project includes more units than are available during an allocation period, the entire project may receive allocation awards if the excess allocation is reduced from the next allocation period(s). ~~Multi-family affordable housing or elderly housing projects shall be given priority.~~

AMENDMENT #17

Amend and renumber Policy 101.5.10 as follows:²⁹

Policy 101.5.10101.5.8

Monroe County may develop a program, called Transfer of ROGO Exemption (TRE), that would allow for the transfer off-site of dwelling units, hotel rooms, campground/recreational vehicle spaces and/or mobile homes to another site in the same ROGO sub-area, provided that they are lawfully existing and can be accounted for in the County's hurricane evacuation model. In addition, the ~~new receiver site would not be eligible for any negative environmental points under ROGO with the exception of those properties designated Residential High.~~ shall be located within a Tier III area and for a receiver site on Big Pine Key and No Name Key, the sending site shall also be located on one of those two islands. ~~When a multiple family housing development utilizes a TRE, any other units in that same project that are permitted through the ROGO process may be eligible for minor positive points on a one for one basis.~~

AMENDMENT #18

Amend Policy 101.6.1 as follows:³⁰

²⁸ This revision reflects need to limit the authority for borrowing from future allocations for any type of development needing multiple units.

²⁹ This policy needs to be revised to reflect the Tier system. In addition, the specific provisions limiting TREs on Big Pine and No Name Key is included to incorporate the community master plan policies

³⁰ Specific language regarding administrative relief needs to be incorporated in policy and the policy needs to be brought up to date. The number of years to be eligible for administrative relief is being extended to reduce potential number of permits that could be left in the pipeline. This extension is within the 4 to 7 year envelope that most case law considers as a reasonable period of delay in permitting before a taking has occurred.

Policy 101.6.1

Monroe County shall, upon a property owner's request, purchase property for fair market value or permit the minimum reasonable economic use of the property pursuant to Policy 101.6.5, if the property owner meets the following conditions:

1. they have been denied an allocation award for four successive years in the Permit Allocation System; Residential (ROGO) or Non-residential (NROGO) Permit Allocation System;
2. their proposed development otherwise meets all applicable county, state, and federal regulations;
3. their allocation application has not been withdrawn;
4. they have complied with all the requirements of the Permit Allocation System Residential or Non-residential Permit Allocation System; and
5. they follow the procedures for administrative relief contained ~~in the Dwelling Unit Allocation Ordinance.~~ in the land development regulations.

As used in this Policy, "minimum reasonable economic use" shall mean, as applied to any residentially zoned lot of record which was buildable immediately prior to the effective date of the Plan, no less than a single-family residence. "Fair market value" shall be an amount which is no less than ad valorem valuation in the Monroe County Real Property Tax Roll for the year 1992, adjusted for inflation, or the current fair market value, whichever is greater.

AMENDMENT #19

Delete Policy 101. 6.5 and Policy 101.6.6 and replace with new Policy 101.6.5:³¹

~~Policy 101.6.5~~

~~Monroe County shall annually compile a list prioritizing the lands requested for County acquisition due to the Permit Allocation System. The lands of the property owners who meet the criteria in Policy 101.6.1 shall be ranked according to:~~

- ~~1. the environmental sensitivity of the vegetative habitat, marine resources, and impacts to the quality of near shore waters as specified by the ranking in the Environmental Design Criteria section of the Land Development Regulations;~~

³¹ These two policy conflicts with the provisions and intent of the Administrative Relief process, which is intended to provide certainty to property owners who are provided administrative relief by the County. The replacement policy sets forth the criteria for the type of properties that the County should offer to purchase under Administrative Relief. It should be noted that Policy 102.4.4 directs County to petition the State and Federal governments to take responsibility for land acquisitions in Tier I areas.

- ~~2. whether the property is in known, probable, and/or potential habitat for one or more threatened and/or endangered species, as indicated on the most recent Protected Animal Maps; and~~
- ~~3. whether development on the property will adversely impact successful protection and recovery of threatened or endangered species, such as development on Big Pine Key, No Name Key, Ohio Key, and North Key Largo.~~

~~Those lands considered most sensitive according to the combination of (a), (b) and (c) above shall be ranked as the highest priority for acquisition.~~

Policy 101.6.6

~~When considering the acquisition of lands denied building permit allocations through the Permit Allocation System, Monroe County shall base the acquisition decision upon the environmentally sensitivity ranking specified in Policy 101.6.5~~

Policy 101.6.5

Monroe County shall pursue land acquisition through voluntary purchase of lands from private property owners denied a building permit through the Permit Allocation System, as the preferred option for administrative relief pursuant to Policy 101.6.1, if the subject permit is for development located within:

1. a designated Tier I area;
2. a designated Tier II area requiring the clearing of 5,000 square feet or more of upland tropical hardwood hammock or pinelands habitat; or,
3. a designated Tier II or Tier III area on a non-waterfront lot suitable for affordable housing.

Refusal of the purchase offer by a property owner shall not be grounds for the granting of a ROGO or NROGO award.

AMENDMENT #20

Amend Policy 101.12.4 to read as follows:³²

Policy 101.12.4

Upon adoption of the Comprehensive Plan, Monroe County shall require that the following analyses be undertaken prior to finalizing plans for the siting of any new or the significant expansion (greater than 25 percent) of any existing public facility:

1. assessment of needs;

³² This new policy reflects amendments in draft Rule 28-20.110; the proposed language has been revised to update it with this series of amendments to the Comprehensive Plan.

2. evaluation of alternative sites and design alternatives for the selected alternative sites; and,
3. assessment of direct and secondary impacts on surrounding land uses and natural resources.

The assessment of impacts on surrounding land uses and natural resources will evaluate the extent to which the proposed public facility involves public expenditures in the coastal high hazard area and within environmentally sensitive areas, including disturbed salt marsh and buttonwood wetlands, undisturbed beach berm areas, units of the Coastal Barrier Resources System, undisturbed uplands (particularly high quality hammock and pinelands), habitats of species considered to be threatened or endangered by the state and/or federal governments, offshore islands, and ~~Conservation Land Protection Areas~~ designated Tier I areas.

Except for passive recreational facilities on publicly-owned land, no new public community or utility facility other than water distribution and sewer collection lines or pump/vacuum/lift stations shall be allowed within Tier I designated areas unless it can be accomplished without clearing of hammock or pinelands. Exceptions to this requirement may be made to protect the public health, safety, and welfare, if all the following criteria are met:

1. No reasonable alternatives exist to the proposed location; and,
2. The proposed location is approved by a supermajority of the Board of County Commissioners.

The site of the Key Largo Wastewater Treatment Facility (located at mile marker 100.5) with an allowed clearing of up to 4.2 acres shall not be subject to this policy.

AMENDMENT #21

Delete Policy 101.13.3.³³

Policy 101.13.3

~~As part of the first annual review of the Point System, an applicant in the Residential Permit Allocation System shall be awarded either one unit for each one development right transferred from an eligible sender site to an eligible receiver site (through the use of Transferable Development Rights or TDRs), or positive points in the Point System (through the uses of Potential Development Credits or PDCs).~~

~~If the applicant opts to receive PDCs, the applicant would receive positive points for transferring development rights away from a sender site to an eligible receiver site.~~

³³ The staff believes the use of TDRs and PDCs in the permit allocation process has little merit and would be too cumbersome to implement.

~~By using this option, the applicant would forfeit the right to develop any additional units that would be granted for TDRs.~~

AMENDMENT #22

Renumber and amend Policy 101.13.4 as follows:

Policy 101.13.4 101.13.3³⁴

~~Transferable Development Rights may be used within the Residential Permit Allocation System to increase density, subject to the limitations contained in the land development regulations. The Maximum Net Density is the maximum density allowable with the use of TDRs, and shall not exceed the maximum densities established in this plan. Density~~ The transfers assignment of TDRs to Big Pine Key, No Name Key, and North Key Largo from other areas of the County shall be prohibited.

AMENDMENT #23

Delete Policy 101.13.5.³⁵

Policy 101.13.5

~~As part of the first annual review of the Point System, positive points, or "Potential Development Credits" (PDCs) shall be awarded for applications proposing non-residential development which will transfer development rights away from eligible sender sites to eligible receiver sites. PDCs shall be awarded to commercial projects for TDRs transferred from either residential or commercial zones.~~

AMENDMENT #24

Amend and renumber Policy 101.13.6 as follows:

Policy 101.13.6 101.13.4

~~In conjunction with the first annual review of the Point System evaluation of the existing TDR program pursuant to Policy 101.13.2, parcels within the following habitats and land use districts shall be designated as sender sites for Transferable Development Rights (TDRs) and Potential Development Credits (PDCs):~~

Any parcel within these zoning categories:

Offshore Island (OS)	Sparsely Settled (SS)
Mainland Native (MN)	Parks and Refuge (PR)
Native (NA)	Conservation (C)

³⁴ This revision reflects the elimination of the authority to use TDRs in allocation system.

³⁵ This revision reflects an update of the policy and the staff's proposal to eliminate the PDCs concept from further consideration.

Habitat of the following types which lie within any zoning category:

Freshwater wetlands
 Saltmarsh/Buttonwood wetlands
 High quality high hammock
 High quality low hammock
 Moderate quality high hammock
 Moderate quality low hammock
 High quality pinelands
 Low quality pinelands
 Beach/berm
 Palm Hammock
 Cactus Hammock
 Disturbed Wetlands

AMENDMENT #25

Delete Policy 101.13.7 and Policy 101.13.8.³⁶

Policy 101.13.7

~~In conjunction with the first annual review of the Point System, the following guidelines shall be used to establish positive point awards in the Residential Permit Allocation System for each PDC:~~

<u>Sender Site</u>	<u>Receiver Site</u>	<u>PDC Points</u>
Freshwater wetland	scarified, in UR	most points
	MU	
	IS	
SR	SR (disturbed land not	
	to include wetlands)	least points

Policy 101.13.8

~~In conjunction with the first annual review of the Point System, the following guidelines shall be used to establish point awards in the Non-residential Permit Allocation System for each PDC:~~

<u>Sender Site</u>	<u>Receiver Site</u>	<u>PDC Points</u>
Freshwater wetland	UC	most points
	SC	
	MU	
SR	SC or MU	least points

³⁶ The deletion of these policies reflects the proposal to eliminate the concept of PDCs.

AMENDMENT #26

Amend and renumber Policy 101.13.9 as follows:³⁷

Policy 101.13.9 101.13.5

~~No later than one year from the effective date of this plan,~~ In conjunction with the evaluation of the TDR program pursuant to Policy 101.13.2 and no later than one year from the date when the County's Geographic Information System is fully functional, Monroe County shall map potential TDR sender and receiver sites as specified in Policies 101.13.6 through 101.13.9 Policy 101.13.4, and shall map parcels from which development rights have been transferred. These maps shall be updated as necessary and made available to Growth Management staff and public for use in the development review process.

AMENDMENT #27

Amend Policy 102.3.1 as follows:³⁸

Policy 102.3.1

The Permit Allocation System (see Future Land Use Objectives 101.2 through 101.4 and related policies) shall have the following environmental protection goals:

1. to reduce the exposure of residents to natural hazards;
2. to reduce disturbances to natural vegetation resource areas;
3. to reduce disturbances to terrestrial wildlife resources areas;
4. to reduce impacts of new development on ~~groundwater and~~ nearshore waters;
5. to acquire vacant privately-owned environmentally sensitive lands for conservation and resource protection;
6. to encourage infill development where existing lands are already substantially developed, served by complete infrastructure facilities and within close proximity to established commercial areas and have few sensitive or significant environmental features;
7. to ensure that the ecological integrity of natural areas is protected when land is developed; and

³⁷ This revision reflects proposed revisions to preceding policies.

³⁸ The revisions reflect changes in the proposed ROGO system.

8. to reduce adverse impacts on endangered and threatened species.

Accordingly, the Point System, which shall be used as the basis for the annual allocation of permits, shall assign negative and/or positive points to development applications ~~based upon:~~ that helps to achieve the above environmental protection goals.

- ~~1. the occurrence of natural resources or natural hazards; and/or~~
- ~~2. proposed utilization of best management practices for wastewater treatment and disposal which will avoid or mitigate the adverse impacts of development on natural resources, particularly water quality.~~

(See Future Land Use Objective 101.5 and related policies for a list of positive and negative factors to be included in the Permit Allocation System.) [9J-5.006(3)(c)1 and 6]

PROPOSED AMENDMENTS TO THE
COMPREHENSIVE PLAN TO
IMPLEMENT REVISIONS TO ROGO
AND NROGO
[HYBRID ROGO OPTION]

DRAFT
OCTOBER 25, 2004

**PROPOSED AMENDMENTS TO
THE COMPREHENSIVE PLAN TO
IMPLEMENT REVISIONS TO ROGO
AND NROGO
[HYBRID ROGO OPTION]**

AMENDMENT #1

Amend Policy 101.2.3 as follows:¹

Policy 101.2.3

The Permit Allocation System for new residential (ROGO) development shall specify procedures for:

1. annual adjustment of the number of permits for new residential units to be issued during the next year based upon, but not limited to the following:
 - a. ~~the number of permits for new residential units issued during the previous year, including permits which did not result in completed units or active progress towards such completion as defined by the Land Development Regulations; and~~
 - b. ~~application of the updated transportation model of the Lower Southeast Florida Hurricane Evacuation Study every five years or when warranted by implementation of roadway capacity improvements, new behavioral data, or substantial changes in development patterns (see Conservation and Coastal Management Element Policy 216.1.5);~~
 - a. expired allocations and building permits in previous year;
 - b. allocations available, but not allocated in previous year;
 - c. number of allocations borrowed from future quarters;
 - d. vested allocations;
 - e. modifications required or provided by this plan or agreement pursuant to Chapter 380, Florida Statutes; and,

¹ Except where further noted, these revisions reflect the updates made to ROGO since the comprehensive plan was adopted and revises the apparent conflict in the text of point 2 with the content of Policy 101.2.4. Rather than allocating between single and multi-family unit types, allocations are by affordable and market rate housing.

- f. receipt or transfer of affordable housing allocations by intergovernmental agreement.
- 2. allocation of single and multi-family unit types affordable and market rate housing units in accordance with Policy 101.2.4;~~;~~ and
- 3. distribution of allocations to be made available for market rate housing units in the competitive and lottery ROGO systems; and²
- 3. 4. timing of the acceptance of applications, evaluation of applications, and issuance of permits for new residential development during the calendar year.

AMENDMENT #2

Amend Policy 101.2.4 as follows:³

Policy 101.2.4

Monroe County shall allocate at least 20 percent of residential (non-transient) growth to affordable housing units as part of the Permit Allocation System. Any portion of the 20 percent allocation not used for affordable housing shall be retained and be made available for affordable housing from ROGO year to ROGO year. Affordable housing eligible for this separate allocation ~~must~~ shall meet the criteria specified in Policy 601.1.7. and shall not be subject to the Residential Permit Allocation and Point System in Policies 101.5.4 and 101.5.5 The parcel proposed for development affordable housing shall not be located ~~in an acquisition area and shall not qualify for negative points according to the criteria specified under Habitat Protection and Threatened or Endangered Animal Species in Policy 101.5.4; however, properties designated Residential High shall be exempted from this prohibition. within an area designated as Tier I as set forth under Goal 105.~~

AMENDMENT #3

Amend Policy 101.3.1 as follows:⁴

Policy 101.3.1

Monroe County shall maintain a balance between residential and non-residential growth by limiting the gross square footage of non-residential development ~~over the 15 year planning horizon in order~~ to maintain a ratio of approximately 239 square

² This revision incorporates the concept of making market rate housing unit allocations available competitively and through a lottery system.

³ This revision reflects that affordable housing will no longer compete under ROGO, but will still be subject to the limits on number of affordable ROGO allocations that can be awarded. In addition, the revision reflects the elimination of negative environmental point categories in ROGO with the use of the Tier system.

⁴ Amendments to this policy are intended to provide the basis for making amendments to the floor space to dwelling unit ratio as needed to accommodate changing needs and policies. The County has already had one study completed concerning market demand for non-residential development and shortly the results of more in-depth report on market demand and needs for non-residential floor area will be completed.

feet of new non-residential development for each new residential unit permitted through the Residential Permit Allocation System. This ratio may be modified from time to time through amendments to the land development regulations based upon market and other relevant studies as required by policy 101.3.5. ~~The ratio for commercial allocation shall be revised upon completion of the economic baseline analysis required by policy 101.3.5 which shall be completed no later than January 4, 1997.~~ The commercial allocation allowed by this policy shall be uniformly distributed ~~over the 15 year planning horizon~~ on an annual basis, consistent with the Residential Permit Allocation system as set forth in Policy 101.2.1. ~~Within one year of the effective date of this plan, Monroe County shall amend this policy to specify the annual allowable square footage based upon the number of residential units allowed by year using the ratio set forth in this policy.~~

AMENDMENT #4

Amend Policy 101.3.3 as follows:⁵

Policy 101.3.3

The Permit Allocation System for new non-residential (NROGO) development shall specify procedures for:

1. the annual adjustment of the square footage allocation ~~for~~ of new non-residential development to be permitted during the next year based upon, but not limited to:
 - a) the square footage ~~of~~ allocated for new non-residential development ~~completed that expired~~ during the previous year;
 - ~~b) strict regulations regarding completion schedules of permitted activities shall be developed and enforced to preclude repeated renewal of expired permits; and~~
 - b) the amount of square footage available for allocations but not allocated in previous year;
 - c) modifications required or provided by this plan; and,
 - d) receipt or transfer of floor area by intergovernmental agreement.
2. maintaining a ratio of approximately 239 square feet of new non-residential development for each new residential unit permitted through the Permit Allocation System, as may be amended from time to time in accordance with Policy 101.3.1; and,

⁵ This policy has been revised to make the policy direction more concise and clear and to reflect other revisions to NROGO proposed in this amendment package.

3. timing of the acceptance of applications, evaluation of applications, and issuance of permits for new non-residential development during the calendar year.

AMENDMENT #5

Amend Policy 101.3.4 as follows:⁶

Policy 101.3.4

Public facilities shall be exempted from the requirements of the Permit Allocation System for new non-residential development. Except within Tier I designated areas, ~~Certain~~ development activity by federally tax-exempt not-for-profit educational, scientific, health, religious, social, cultural, and recreational organizations may be exempted from the Permit Allocation System by the Board of County Commissioners after review by the Planning Commission upon a finding that such activity will predominately serve the County's non-transient population. All public and institutional uses that predominately serve the County's non-transient population and which house temporary residents shall be included in the Permit Allocation System for residential development, except upon factual demonstration that such transient occupancy is of such a nature so as not to adversely impact the hurricane evacuation clearance time of Monroe County.

AMENDMENT #6

Amend Policy 101.3.5 as follows:⁷

Policy 101.3.5

By ~~January 4, 1998~~ July 2005, Monroe County shall complete ~~a an economic base analysis market demand analysis and economic assessment in order~~ to determine the demand for future non-residential development in Monroe County and planning sub-areas. The non-residential development allocation and Future Land Use Map (FLUM) designations for non-residential uses ~~shall be~~ may be revised based upon the results of this study and other relevant policy and economic studies and data and provide the basis for preparing specific amendments to the comprehensive plan to incorporate goals, objectives and policies on economic development including tourism. The ~~economic base~~ analysis will address existing non-residential uses, vacancy rates, economic trends and demand for non-residential uses by planning sub-area.

⁶ This revision reflects recent amendments to LDRs to preclude exemptions for not-for-profits within Conservation and Natural Areas (Tier I).

⁷ This amendment reflects the current market and economic strategy study being completed by the Chesapeake Group, which will provide the basis for making changes in future land use designations and in eventual preparation of economic development policies for the County as an integral part of the Comprehensive Plan.

AMENDMENT #7

Amend Policy 101.4.21 by adding (i) under "Notes" in the table entitled "Future Land Use Densities and Intensities" that reads as follows:

- (i) The Maximum Net Density is the maximum density allowable with the use of TDRs.

AMENDMENT #8

Amend Objective 101.5 as follows:⁸

Objective 101.5

Monroe County shall implement a Point System based primarily on the Tier system of land classification in accordance with Goal 105, which directs future growth in order to:

1. encourage the redevelopment and renewal of blighted areas [9J-5.006(3)(b)2];
2. maintain and enhance the character of the community [9J-5.006(3)(b)3];
3. protect natural resources [9J-5.006(3)(b)4];
4. encourage a compact pattern of development [9J-5.006(3)(b)7]; and
5. encourage the development of affordable housing; and
6. encourage development in areas served by central wastewater treatment systems.

⁹

AMENDMENT #9

Amend Policy 101.5.1 as follows:¹⁰

Policy 101.5.1

By January 4, 1997, Monroe County shall adopt through its land development regulations a new Point System for residential and non-residential development to replace the existing Point System by no later than July 1, 2005. Except for affordable housing, this Point System, which shall be used as a basis for selecting the development applications, which are to be issued permits through the competitive Permit Allocation System pursuant to Policy 101.1.5.5 and Policy 101.1.5.7 (see Policy 101.2.1). For market rate housing units or non-residential development to be awarded allocations under the competitive Permit Allocation System, the Point System shall specify positive point factors which shall be considered as assets and shall specify negative point factors which shall be considered as liabilities in the evaluation of applications for new residential and non-residential development. For

⁸ This revision reflects the incorporation of the Tier system as the framework for implementing the point system.

⁹ This revision reflects the incorporation of positive points in the permit allocation system for development to be connected to an existing central wastewater treatment system.

¹⁰ This revision updates the Policy and reflects the shift away from using negative points in ROGO. It establishes a one-year time frame for its completion. Furthermore, it incorporates the use of a lottery system for some portion of the market rate housing that requires applications to meet a minimum point threshold to be eligible for selection.

market rate housing units to be awarded allocations under the lottery Permit Allocation System pursuant to Policy 101.5.6, the Point System shall specify the minimum threshold number of points required to be eligible for selection.

AMENDMENT #10

Amend Policy 101.5.2 as follows:¹¹

Policy 101.5.2

In order to encourage a compact form of residential growth, ~~the Point System shall assign positive point ratings to applications for new residential development which would that results~~ in infill development in platted, improved subdivisions, the Point System shall be primarily based on the Tier system of land classification as set forth under Goal 105, [9J-5.006(3)(c)1 and 6]

AMENDMENT #11

Amend Policy 101.5.3 as follows:¹²

Policy 101.5.3

In order to encourage a compact form of non-residential growth, the Permit Allocation System shall limit and direct the amount of new non-residential development primarily to areas designated as Tier III and provide incentives for redevelopment of existing and infill sites. (See Policy 101.3.1.) [9J-5.006(3)(c)1]

AMENDMENT #12

Create a new Policy 101.5.4 that reads as follows:¹³

Policy 101.5.4

In addition to a competitive process for the selection of development application applications for new market rate housing, which are to be issued permits through the Residential Permit Allocation System, Monroe County may implement through its land development regulations a lottery selection process. The competitive selection process is intended to give applicants who need certainty in the Permit Allocation System the ability to compete with other applicants through a point system that they can directly influence such as by aggregation of lots or dedication of land to the County for conservation and resource protection or affordable

¹¹ This revision reflects the use of the Tier system for directing growth to specific areas. The Tier system takes into account consideration of habitat, threatened and endangered species and availability of infrastructure and services through its classification of properties into Tiers. The current system awards many properties within platted subdivisions that are within environmentally sensitive habitat or have impacts on endangered and threatened species.

¹² The existing policy fails to adequately provide broad guidance to promote compact development and needs to be amended to incorporate the Tier System.

¹³ This new policy specifically authorizes the implementation of a dual system for awarding market rate housing allocations, if the County so desires, and spells out the intended purpose of the two selection processes. Basically, ROGO has been criticized as a rich man's game; the introduction of the hybrid system will allow applicants who may not have the financial resources an opportunity to compete.

housing. The lottery selection process, which shall provide that each eligible application will have an equal chance to be selected, is intended to give applicants an increased opportunity to receive an allocation award, who may not have the financial resources to be successful under a solely competitive scoring system.

AMENDMENT #13

Delete existing Policy 101.5.4 in its entirety and replace with new Policy 101.5.5 that reads as follows:¹⁴

Policy 101.5.5

Monroe County shall implement the competitive selection process for awarding the allocation of market rate housing in the Residential Permit Allocation and Point System through its the land development regulations based primarily on the Tier system of land classification as set forth under Goal 105. The points to be used in this competitive selection process are intended to be applied cumulatively.

1. **Tier Designation** - Utilizing the Tier System for land classification in Policy 105.2.1, the following points shall be assigned to allocation applications for proposed dwelling units in a manner that encourages development of infill, predominately developed areas with existing infrastructure and few sensitive environmental features and discourages development in areas with environmentally sensitive upland habitat, which must be acquired or development rights retired for resource conservation and protection.¹⁵

<i>Points</i>	<i>Criteria:</i>
0	Proposes a dwelling unit within areas designated Tier I [Natural Area].
+10	Proposes development within areas designated Tier II [Transition and Sprawl Reduction Area] on Big Pine or No Name Key.
+20	Proposes development within areas designated Tier II[Transition and Sprawl Reduction Area]

¹⁴ The existing policy has been revised to reflect that it will only be used in the competitive process for market rate allocations.

¹⁵ The Tier system is intended to provide the underlying base for directing growth under the revised ROGO system. Rather than using negative points, the system uses a positive point approach which is legally more defensible than one relying on negative scoring.

	outside of Big Pine or No Name Key.
+20	Proposes development within areas designated Tier III [Infill Area] on Big Pine or No Name Key.
+30	Proposes development within areas designated Tier III [Infill Area] outside of Big Pine or No Name Key.

2. **Big Pine and No Name Keys** - The following negative points shall be cumulatively assigned to allocation applications for proposed dwellings to implement the Big Pine Key and No Name Key Habitat Conservation Plan and the Livable CommuniKeys Community Master Plan.

<i>Point Assignment:</i>	<i>Criteria:</i>
-10	Proposes development on No Name Key.
-10	Proposes development in designated Lower Keys Marsh Rabbit habitat or buffer areas as designated in the Community Master Plan.
-10	Proposes development in Key Deer Corridor as designated in the Community Master Plan.

3. **Lot Aggregation** – The following points shall be assigned to allocation applications to encourage the voluntary reduction of

density through aggregation of legally platted buildable lots within Tier II and Tier III areas.¹⁶

<i>Point Assignment:</i>	<i>Criteria:</i>
+4	Proposes to aggregate a contiguous vacant, legally platted lot within a Tier II or Tier III area with sufficient lot size and upland area to be buildable together with the parcel proposed for development.
+4	Each additional contiguous vacant, legally platted lot which is aggregated in Tier II or III area that meets the aforementioned requirements will earn additional points as specified.

4. **Land Dedication** – The following points shall be assigned to allocation applications to encourage the voluntary dedication of vacant, buildable land within Tier I and Tier II designated areas and certain legally, platted lots and unplatted parcels in Tier I that are of insufficient size to be buildable for the purposes of conservation, resource protection, restoration or density reduction; and if located in Tier II or Tier III, for the purpose of providing land for affordable housing, where appropriate.¹⁷

<i>Point Assignment:</i>	<i>Criteria:</i>
+4	Proposes dedication to

¹⁶ The revised lot aggregation system is similar to existing system except scoring has been changed to reflect overall changes in scoring. Tier I areas are not eligible for aggregation and Policy 205.2.7 limits aggregation points if clearing of upland native vegetation occurs in Tier II areas.

¹⁷ The land dedication scoring has been completely revised to reflect change in scoring and to allow more flexibility in the sizes of property that may be dedicated. A major change has been to allow currently NA, SR and SR-L lots, which are currently unbuildable due to lot size, to be eligible for ROGO dedication. In addition, this policy spells out that lots dedicated in Tier II or Tier III may be used by the County for providing land for affordable housing, where appropriate.

	Monroe County of one vacant, legally platted lot of sufficient minimum lot size and upland area to be buildable. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+1 for each 5,000 square feet of lot size	Proposes dedication to Monroe County of a vacant legally platted lot of 5,000 square feet or more in size, designated as Residential Low with maximum net density within a Tier I area and containing sufficient upland area to be buildable. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+0.5	Proposes dedication to Monroe County of one (1) vacant, legally platted lot of at least 5,000 square feet in size within a Tier I area, designated as Residential Conservation, or Residential Low with no maximum net density, containing sufficient upland to be buildable. Each additional vacant, legally platted lot that

	meets the aforementioned requirements will earn points as specified.
+4	Proposes dedication to Monroe County of at least one (1.0) acre of vacant, unplatted land located within a Tier I area containing sufficient upland to be buildable. Each additional one (1.0) acre of vacant, unplatted land that meets the aforementioned requirements will earn points as specified.

- 5. Market Rate Housing in Employee or Affordable Housing Project-**
The following points shall be assigned to allocation applications for
market rate housing units in an employee or affordable housing project:¹⁸

<i>Point Assignment:</i>	<i>Criteria:</i>
+3	Proposes a market rate housing unit which is part of an affordable or employee housing project; both affordable and employee housing shall meet the policy guidelines for income in Policy 601.1.7 and other requirements pursuant to the Land Development Regulations.

¹⁸ This policy is intended to provide more incentives to build affordable housing by encouraging the mixture of
affordable housing with market rate housing.

6. **Special Flood Hazard Areas** – The following points shall be assigned to allocation applications for proposed dwelling unit(s):¹⁹

<i>Point Assignment:</i>	<i>Criteria:</i>
-4	Proposes development proposed within “V” zones on the FEMA flood insurance rate maps.

7. **Central Wastewater System Availability** – The following points shall be assigned to allocation applications:²⁰

<i>Point Assignment:</i>	<i>Criteria:</i>
+4	Proposes development required to be connected to a central wastewater treatment system that meets the BAT/AWT treatment standards established by Florida Legislature and Policy 901.1.1.

8. **Perseverance Points** – One (1) to two (2) points shall be awarded for each year that the allocation application remains in the allocation system.
9. **Payment to the Land Acquisition Fund** – Up to three (3) points shall be awarded for a monetary payment by the applicant to the County’s land acquisition fund for the purchase of lands for conservation, affordable housing, and retirement of development rights. The monetary value of each point shall be set annually by the County based upon the average ad valorem valuation of all vacant privately-owned IS/URM zoned platted lots on the current Monroe County Real Property Tax Roll.²¹

¹⁹ This revision eliminates the negative points for “A” zone, in which the predominate number of properties are located and the positive points for “X” zones that only affect a very insignificant number of properties.

²⁰ This scoring incentive is intended to: encourage infill development in areas served by central sewer systems being upgraded or constructed to meet 2010 Wastewater Treatment Standards; maximize public investment; reduce the average EDU operating/maintenance costs of these systems; and recoup capital costs.

²¹ The purchase of points incentive is intended to help restrain the escalating costs of lots eligible for dedication under ROGO, reduce the problems average applicants have in purchasing lots eligible for ROGO dedication, and to augment existing funding sources for purchase of lands for conservation, affordable housing

AMENDMENT #14

Create a new Policy 101.5.6 that reads as follows:²²

Policy 101.5.6

In addition to a competitive selection process as set forth in Policy 101.5.5, Monroe County may implement a lottery selection process for awarding the allocation of market rate housing in the Residential Permit Allocation and Point system through its land development regulations based primarily on the Tier system of land classification as set forth under Goal 105. To be eligible for the lottery selection process, an application shall be required to have a minimum of 30 points and shall not be for any development proposed on Big Pine Key or No Name Key. The points are intended to be applied cumulatively.

1. **Tier Designation** - Utilizing the Tier System for land classification in Policy 105.2.1, the following points shall be assigned to allocation applications for proposed dwelling units in a manner that encourages development of infill, predominately developed areas with existing infrastructure and few sensitive environmental features.²³

<i>Points</i>	<i>Criteria:</i>
0	Proposes a dwelling unit within areas designated Tier I [Natural Area].
+20	Proposes development within areas designated Tier II[Transition and Sprawl Reduction Area].
+30	Proposes development within areas designated Tier III [Infill Area].

and retirement of development rights. The current average ad valorem value of privately owned vacant IS/URM platted lots is \$28,990. The maximum number of points that can be purchased through donation to the Land Acquisition Fund is limited to encourage dedication of lots as the preferred method for land acquisition. The calculation procedures for determining monetary value for a point will be established in LDRs. Basically, the average ad valorem value of privately owned vacant IS/URM platted lots will be divided by four (points awarded for dedication of a platted lot) to determine the per point monetary figure.

²² This policy establishes the lottery process and the scoring system to be followed to determine eligibility in this process. It specifically excludes Big Pine Key and No Name Key due to the differences in how the Tier system was established for these keys and the small number of annual allocations involved. It does not include any points for connection to a central wastewater treatment system to reduce incentives for developing in Tier II areas.

²³ This scoring mirrors Policy 101.5.5.

2. **Lot Aggregation** – The following points shall be assigned to allocation applications to provide a mitigation option for development outside of Tier III designated areas through reduction of density by the aggregation of legally platted buildable lots within Tier II and Tier III areas.²⁴

<i>Point Assignment:</i>	<i>Criteria:</i>
+4	Proposes to aggregate a contiguous vacant, legally platted lot within a Tier II or Tier III area with sufficient lot size and upland area to be buildable together with the parcel proposed for development.
+4	Each additional contiguous vacant, legally platted lot which is aggregated in Tier II or III area that meets the aforementioned requirements will earn additional points as specified.

4. **Land Dedication** – The following points shall be assigned to allocation applications to provide a mitigation option for development outside of Tier III designated areas through the dedication of vacant, buildable land within Tier I and Tier II designated areas and certain legally, platted lots and unplatted parcels in Tier I that are of insufficient size to be buildable for the purposes of conservation, resource protection, restoration or density reduction, and if located in Tier II or Tier III, for the purpose of providing land for affordable housing where appropriate.²⁵

<i>Point Assignment:</i>	<i>Criteria:</i>
+4	Proposes dedication to

²⁴ This scoring mirrors Policy 101.5.5.

²⁵ This scoring mirrors Policy 101.5.5.

	Monroe County of one vacant, legally platted lot of sufficient minimum lot size and upland area to be buildable. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+1 for each 5,000 square feet of lot size	Proposes dedication to Monroe County of a vacant, legally platted lot of 5,000 square feet or more in size, designated as Residential Low with maximum net density within a Tier I area and containing sufficient upland area to be buildable. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+0.5	Proposes dedication to Monroe County of one (1) vacant, legally platted lot of at least 5,000 square feet in size within a Tier I area, designated as Residential Conservation, or Residential Low with no maximum net density, containing sufficient upland to be buildable. Each additional vacant, legally platted lot that

	meets the aforementioned requirements will earn points as specified.
+4	Proposes dedication to Monroe County of at least one (1) acre of vacant, unplatted land located within a Tier I area containing sufficient upland to be buildable. Each additional one (1) acre of vacant, unplatted land that meets the aforementioned requirements will earn points as specified.

5. Special Flood Hazard Areas – The following negative points shall be assigned to allocation applications for proposed dwelling unit(s) to encourage development outside of high risk special flood hazard zones.²⁶

<i>Point Assignment:</i>	<i>Criteria:</i>
-4	Proposes development proposed within “V” zones on the FEMA flood insurance rate maps.

6. Payment to the Land Acquisition Fund – Up to three (3) points shall be awarded for a monetary payment by the applicant to the County’s land acquisition fund for the purchase of lands for conservation and affordable housing and retirement of development rights. The monetary value of each point shall be set annually by the County based upon the average ad valorem valuation of all vacant privately-owned IS/URM zoned platted lots on the current Monroe County Real Property Tax Roll.²⁷

²⁶ This scoring mirrors Policy 101.5.5.

²⁷ The purchase of points incentive is intended to help restrain the escalating costs of lots eligible for dedication under ROGO, reduce the problems average applicants have in purchasing lots eligible for ROGO dedication, and to augment existing funding sources for purchase of lands for conservation, affordable housing

AMENDMENT #15

Delete Policy 101.5.5 in its entirety and replace with new Policy 101.5.7 that reads as follows:

Policy 101.5.7

Monroe County shall implement the Non-residential Permit Allocation and Point System through its land development regulations based primarily on the Tier system of land classification pursuant to Goal 105. The points are intended to be applied cumulatively.

1. **Tier Designation** – Utilizing the Tier System for land classification in Policy 105.2.1, the following points shall be assigned to allocation applications for proposed non-residential development in a manner that encourages development of infill, predominately developed areas with existing infrastructure, commercial concentrations, and few sensitive environmental features, and discourages development in areas with environmentally sensitive upland habitat, which must acquired or development rights retired for resource conservation and protection:²⁸

<i>Point assignment:</i>	<i>Criteria:</i>
0	Proposes non-residential development within an area designated Tier I [Conservation, Restoration and Protection]
+10	Proposes non-residential development within an area designated Tier II [Transition and Sprawl Reduction].
+20	Proposes non-residential development within an area designated Tier III [Infill and Redevelopment].

2. **Intensity Reduction.** The following points shall be assigned to allocation applications to encourage the voluntary reduction of intensity:

and retirement of development rights. The average value privately owned vacant IS/URM platted lots is \$28,990. The maximum number of points that can be purchased through donation to the Land Acquisition Fund is limited to encourage dedication of lots as the preferred method for land acquisition. The monetary value would be based on dividing the average ad valorem value of all privately owned vacant IS/URM platted lots by four (points awarded for dedication of a platted lot) to determine the per point monetary figure.

²⁸ The Tier System is intended to provide the underlying basis for directing growth under the revised NROGO system. Rather than using negative points, the system relies on a positive approach, which is legally more defensible than one relying on negative scoring.

<i>Point assignment:</i>	<i>Criteria:</i>
+ 4	An application proposes development that reduces the permitted floor area ratio (FAR) to twenty three percent (23%) or less.

3. **Land Dedication** - The following points shall be assigned to allocation applications to encourage the voluntary dedication of vacant, buildable land within Tier I and Tier II designated areas and certain legally, platted lots and unplatted parcels in Tier I that are of insufficient size to be buildable for the purposes of conservation, resource protection, restoration or density reduction, and if located in Tier II or Tier III, for the purpose of providing land for affordable housing where appropriate.²⁹

<i>Point assignment:</i>	<i>Criteria:</i>
+4	Proposes dedication to Monroe County of one (1) vacant, legally platted lot of sufficient minimum lot size and upland area to be buildable. Each additional vacant, legally platted, buildable lot which is dedicated that meets the aforementioned requirements will earn the additional points as specified.
+1 per 5,000 square feet of lot area	Proposes dedication to Monroe County of a vacant, legally platted lot of five thousand (5,000) square feet or more in size, designated as Residential Low with maximum net density within a Tier I area and containing sufficient upland to be buildable. Each additional vacant, legally platted lot, that meets the aforementioned requirements will earn points as specified.
+0.5	Proposes dedication to Monroe County of one (1) vacant, legally platted lot of five thousand (5,000) square feet or more within a Tier I area designated as Residential Conservation, or Residential Low with no maximum net density, containing sufficient upland to be buildable. Each additional vacant, legally platted lot that meets the aforementioned requirements will

²⁹ The land dedication scoring has been completely revised to reflect change in scoring and to allow more flexibility in the sizes of property that may be dedicated. A major change has been to allow currently NA, SR and SR-L lots, which are currently unbuildable due to lot size, to be eligible for ROGO dedication. In addition, this policy spells out that lots dedicated in Tier II may be used by the County for providing land for affordable housing, where appropriate.

	earn the half (0.5) point as specified.
+4	Proposes dedication to Monroe County of at least one (1) acre of vacant, unplatted buildable land located within a Tier I area containing sufficient upland area to be buildable. Each additional one (1) acre of vacant, unplatted land that meets the aforementioned requirements will earn the points as specified.

4. **Special Flood Hazard Area** - The following points shall be assigned to allocation applications to discourage development within high risk special flood hazard zones:³⁰

<i>Point assignment:</i>	<i>Criteria:</i>
- 4	Proposes development within a "V" zone on the FEMA Flood Insurance Rate Map.

5. **Perseverance Points** - One (1) or two (2) points shall be awarded for each year that the allocation application remains in the system.
6. **Highway Access** - The following points shall be applied to allocation applications to encourage connections between commercial uses and reduction of the need for trips and access onto U.S. Highway 1:³¹

<i>Point assignment:</i>	<i>Criteria:</i>
+3	The development eliminates an existing driveway or access-way to U.S. Highway 1.
+2	The development provides no new driveway or access-way to U.S. Highway 1.

7. **Landscaping and Water Conservation** - The following points shall be assigned to allocation applications to encourage the planting of native vegetation and promote water conservation:

<i>Point assignment:</i>	<i>Criteria:</i>
+3	The project provides a total of two hundred percent (200%) of the number of native landscape plants on its property than the number of native landscape plants required by

³⁰ Negative points for special flood hazards have been revised similar to those for ROGO.

³¹ The scoring criteria for access has been thoroughly revised to better effectuate the intent of this scoring policy.

	this chapter within landscaped bufferyards and parking areas.
+1	Twenty-five percent (25%) of the native plants provided to achieve the three (3) point award above or provided to meet the landscaped bufferyard and parking area requirements of this chapter are listed as threatened or endangered plants native to the Florida Keys.
+2	Project landscaping is designed for water conservation such as use of one hundred percent (100%) native plants for vegetation, collection and direction of rainfall to landscaped areas, or the application of re-used wastewater or treated seawater for watering of landscape plants.

- 8. Central Wastewater System Availability** – The following points shall be assigned to allocation applications:³²

<i>Point Assignment:</i>	<i>Criteria:</i>
+4	Proposes development required to be connected to a central wastewater treatment system that meets the BAT/AWT treatment standards established by Florida Legislature and Policy 901.1.1.

- 9. Employee Housing** – The following points, up to a maximum of four (4), shall be assigned to allocation applications for employee housing units:³³

<i>Point Assignment:</i>	<i>Criteria:</i>
+2	Proposes an employee housing unit which is located on a parcel with a non-residential

³² This scoring incentive is intended to: encourage infill development in areas served by central sewer systems being upgraded or constructed to meet 2010 Wastewater Treatment Standards; maximize public investment; reduce the average EDU operating/maintenance costs of these systems; and recoup capital costs.

³³ This provision is intended to encourage mixed commercial-residential development and to provide additional incentives to encourage the provision of affordable employee housing.

	use.
+2	One (1) additional employee housing unit located on the parcel with a non-residential use

- 10. Payment to the Land Acquisition Fund** – Up to three points shall be awarded for a monetary payment by the applicant to the County's land acquisition fund for the purchase of lands for conservation, affordable housing, and retirement of development rights. The monetary value of each point shall be set annually by the County based upon the average ad valorem valuation of all vacant privately-owned IS/URM zoned platted lots on the current Monroe County Real Property Tax Roll.³⁴

AMENDMENT #16

Renumber and amend Policy 101.5.6 as follows.³⁵

Policy 101.5.6-101.5.8

The Residential and Non-residential Point Systems shall be monitored on an annual basis and revised as necessary ~~to add, delete or adjust positive and negative factors based on new studies and data in a manner that is consistent with and furthers the goals, policies, and objectives of this plan, which may be identified by studies prepared as part of the implementation of the Goals, Objectives and Policies of the Comprehensive Plan.~~ Such adjustments to the Point Systems shall result in amendments to the Comprehensive Plan and/or land development regulations as appropriate. These studies include, but are not limited to:

1. ~~the Sanitary Wastewater Master Plan (see Sanitary Wastewater Objective 901.4 and related policies);~~
2. ~~the Stormwater Management Master Plan (see Drainage Objective 1001.3 and related policies);~~

³⁴ The purchase of points incentive is intended to help restrain the escalating costs of lots eligible for dedication under ROGO, reduce the problems average applicants have in purchasing lots eligible for ROGO dedication, and to augment existing funding sources for purchase of lands for conservation, affordable housing and retirement of development rights. The average value privately owned vacant IS/URM platted lots is \$28,990. The maximum number of points that can be purchased through donation to the Land Acquisition Fund is limited to encourage dedication of lots as the preferred method for land acquisition. The calculation procedures for determining monetary value for a point will be established in LDRs. Basically, the average ad valorem value of privately owned vacant IS/URM platted lots will be divided by four (points awarded for dedication of a platted lot) to fixed the per point monetary figure.

³⁵ This existing policy is no longer relevant and has been replaced with new Tier based system and Livable CommuniKeys community master planning process. The policy has been replaced with a broader policy that calls for updates and revisions to the permit allocation system as needed.

3. ~~the Florida Keys National Marine Sanctuary Management Plan;~~
4. ~~special studies undertaken as part of the Florida Keys National Marine Sanctuary Water Quality Protection Program (see Conservation and Coastal Management Objective 202.1 and related policies);~~
5. ~~the Live Aboard Study (see Conservation and Coastal Management Objective 202.4 and related policies);~~
6. ~~the Florida Keys Advance Identification of Wetlands (ADID) Program (see Conservation and Coastal Management Objective 204.1 and related policies);~~

AMENDMENT #17

Delete Policy 101.5.7 and Policy 101.5.8.³⁶

Policy 101.5.7

~~As part of the first annual review of the Residential and Non-residential Point Systems, additional criteria may be included such as:~~

1. ~~North Key Largo Negative points may be assigned for development proposed within that portion of Key Largo located between the junction of State Road 905 and U.S. Highway 1 and the Dade County boundary at Angelfish Creek.~~
2. ~~Traffic Capacity As part of the first annual review of the Residential and Non-residential Point System, positive points may be assigned for development served by US 1 segments which have surplus capacity. Negative points shall be assigned for development served by US 1 segments which have marginal capacity.~~
3. ~~Offshore Islands Negative points may be assigned to developments on offshore islands.~~
4. ~~Conservation Lands Negative points may be assigned to developments which may impact designated or proposed conservation lands.~~
5. ~~Disturbed Saltmarsh and Buttonwood Wetlands Negative points may be assigned to developments which require the placement of fill or structures in disturbed saltmarsh and buttonwood wetlands.~~
6. ~~Historic Resources Negative points may be assigned to developments which remove or destroy historic or archaeological resources. Positive points may~~

³⁶ These two policies are no longer relevant with the revisions to the ROGO system based on the Tier system and increased emphasis on lot dedication and density reduction.

~~be assigned to developments which restore or enhance historic or archaeological resources.~~

7. ~~Potential Development Credits (PDCs) An applicant may have the option of receiving positive points, called Potential Development Credits (PDCs), for transferring development rights away from a sender site for development proposed on an eligible receiver site, as specified in Objective 101.13 and related policies.~~

Policy 101.5.8

~~The Residential Permit Allocation Ordinance shall be amended to award a graduated scale of positive points to dwelling units which are proposed for lots within legally platted, recorded subdivisions, which are served by existing infrastructure, including at a minimum potable water, electricity and paved roadways. Maximum points shall be awarded for those projects proposed within platted subdivisions which are 67% to 100% built out; fewer points will be awarded for projects proposed for subdivisions 33% - 67% built out; and minimum points shall be awarded for projects proposed for subdivisions 0 - 33% built out. The percentage of build out shall be based upon updated, accurate data from the County's Geographic Information System (GIS). The Ordinance shall be amended when the pertinent information is readily available on the County's GIS.~~

AMENDMENT #18

Amend Policy 101.5.9 as follows:³⁷

Policy 101.5.9

Monroe County shall allow for the development of residential ~~multi-family~~ projects with multiple units within the Permit Allocation System. If a project ranks high enough in the Point System for a portion of the development to receive an allocation award, but the project includes more units than are available during an allocation period, the entire project may receive allocation awards if the excess allocation is reduced from the next allocation period(s). ~~Multi-family affordable housing or elderly housing projects shall be given priority.~~

AMENDMENT #19

Amend Policy 101.5.10 as follows:³⁸

Policy 101.5.10

Monroe County may develop a program, called Transfer of ROGO Exemption (TRE), that would allow for the transfer off-site of dwelling units, hotel rooms,

³⁷ This revision reflects need to limit authority for borrowing from future allocations for any type of development needing multiple units.

³⁸ This policy needs to be revised to reflect the Tier system. In addition, the specific provisions limiting TREs on Big Pine and No Name Key is included to incorporate the community master plan policies

~~campground/recreational vehicle spaces and/or mobile homes to another site in the same ROGO sub-area, provided that they are lawfully existing and can be accounted for in the County's hurricane evacuation model. In addition, the new receiver site would not be eligible for any negative environmental points under ROGO with the exception of those properties designated Residential High. shall be located within a Tier III area and for a receiver site on Big Pine Key and No Name Key, the sending site shall also be located on one of those two islands. When a multiple family housing development utilizes a TRE, any other units in that same project that are permitted through the ROGO process may be eligible for minor positive points on a one for one basis.~~

AMENDMENT #20

Amend Policy 101.6.1 as follows:³⁹

Policy 101.6.1

Monroe County shall, upon a property owner's request, purchase property for fair market value or permit the minimum reasonable economic use of the property pursuant to Policy 101.6.5, if the property owner meets the following conditions:

1. they have been denied an allocation award for four successive years in the ~~Permit Allocation System;~~ Residential or Non-residential Permit Allocation System;
2. their proposed development otherwise meets all applicable county, state, and federal regulations;
3. their allocation application has not been withdrawn;
4. they have complied with all the requirements of the ~~Permit Allocation System~~ Residential or Non-residential Permit Allocation System; and
5. they follow the procedures for administrative relief contained ~~in the Dwelling Unit Allocation Ordinance.~~ in the land development regulations.

As used in this Policy, "minimum reasonable economic use" shall mean, as applied to any residentially zoned lot of record which was buildable immediately prior to the effective date of the Plan, no less than a single-family residence. "Fair market value" shall be an amount which is no less than ad valorem valuation in the Monroe County Real Property Tax Roll for the year 1992, adjusted for inflation, or the current fair market value, whichever is greater.

³⁹ Specific language regarding administrative relief needs to be incorporated in policy and the policy needs to be brought up to date. The number of years to be eligible for administrative relief is being extended to reduce potential number of permits that could be left in the pipeline. This extension is within the 4 to 7 year envelope that most case law considers as a reasonable period of delay in permitting before a taking has occurred.

AMENDMENT #21

Delete Policy 101. 6.5 and Policy 101.6.6 and replace with new Policy 101.6.5:⁴⁰

Policy 101.6.5

~~Monroe County shall annually compile a list prioritizing the lands requested for County acquisition due to the Permit Allocation System. The lands of the property owners who meet the criteria in Policy 101.6.1 shall be ranked according to:~~

- ~~1. the environmental sensitivity of the vegetative habitat, marine resources, and impacts to the quality of near shore waters as specified by the ranking in the Environmental Design Criteria section of the Land Development Regulations;~~
- ~~2. whether the property is in known, probable, and/or potential habitat for one or more threatened and/or endangered species, as indicated on the most recent Protected Animal Maps; and~~
- ~~3. whether development on the property will adversely impact successful protection and recovery of threatened or endangered species, such as development on Big Pine Key, No Name Key, Ohio Key, and North Key Largo.~~

~~Those lands considered most sensitive according to the combination of (a), (b) and (c) above shall be ranked as the highest priority for acquisition.~~

Policy 101.6.6

~~When considering the acquisition of lands denied building permit allocations through the Permit Allocation System, Monroe County shall base the acquisition decision upon the environmentally sensitivity ranking specified in Policy 101.6.5~~

Policy 101.6.5

Monroe County shall pursue land acquisition through voluntary purchase of lands from private property owners denied a building permit through the Permit Allocation System, as the preferred option for administrative relief pursuant to Policy 101.6.1, if the subject permit is for development located within:

1. a designated Tier I area;
2. a designated Tier II area requiring the clearing of 5,000 square feet or more of upland tropical hardwood hammock or pinelands habitat; or,

⁴⁰ These two policy conflicts with the provisions and intent of the Administrative Relief process, which is intended to provide certainty to property owners who are provided administrative relief by the County. The replacement policy sets forth the criteria for the type of properties that the County should offer to purchase under Administrative Relief. It should be noted that Policy 102.4.4 directs County to petition the State and Federal governments to take responsibility for land acquisitions in Tier I areas.

3. a designated Tier II or Tier III area on a non-waterfront lot suitable for affordable housing.

Refusal of the purchase offer by a property owner shall not be grounds for the granting of a ROGO or NROGO award.

AMENDMENT #22

Amend Policy 101.12.4 to read as follows:⁴¹

Policy 101.12.4

Upon adoption of the Comprehensive Plan, Monroe County shall require that the following analyses be undertaken prior to finalizing plans for the siting of any new or the significant expansion (greater than 25 percent) of any existing public facility:

1. assessment of needs;
2. evaluation of alternative sites and design alternatives for the ~~selected~~ alternative sites; and,
3. assessment of direct and secondary impacts on surrounding land uses and natural resources.

The assessment of impacts on surrounding land uses and natural resources will evaluate the extent to which the proposed public facility involves public expenditures in the coastal high hazard area and within environmentally sensitive areas, including disturbed salt marsh and buttonwood wetlands, undisturbed beach berm areas, units of the Coastal Barrier Resources System, undisturbed uplands (particularly high quality hammock and pinelands), habitats of species considered to be threatened or endangered by the state and/or federal governments, offshore islands, and ~~Conservation Land Protection Areas~~ designated Tier I areas.

Except for passive recreational facilities on publicly-owned land, no new public community or utility facility other than water distribution and sewer collection lines or pump/vacuum/lift stations shall be allowed within Tier I designated areas unless it can be accomplished without clearing of hammock or pinelands. Exceptions to this requirement may be made to protect the public health, safety, and welfare, if all the following criteria are met:

1. No reasonable alternatives exist to the proposed location; and,
2. The proposed location is approved by a supermajority of the Board of County Commissioners.

⁴¹ This new policy reflects amendments in draft Rule 28-20.110; the proposed language has been revised to update it with this series of amendments to the Comprehensive Plan.

The site of the Key Largo Wastewater Treatment Facility (located at mile marker 100.5) with an allowed clearing of up to 4.2 acres shall not be subject to this policy.

AMENDMENT #23

Delete Policy 101.13.3.⁴²

Policy 101.13.3

~~As part of the first annual review of the Point System, an applicant in the Residential Permit Allocation System shall be awarded either one unit for each one development right transferred from an eligible sender site to an eligible receiver site (through the use of Transferable Development Rights or TDRs), or positive points in the Point System (through the uses of Potential Development Credits or PDCs).~~

~~If the applicant opts to receive PDCs, the applicant would receive positive points for transferring development rights away from a sender site to an eligible receiver site. By using this option, the applicant would forfeit the right to develop any additional units that would be granted for TDRs.~~

AMENDMENT #24

Renumber and amend Policy 101.13.4 as follows:

Policy ~~101.13.4~~ 101.13.3⁴³

~~Transferable Development Rights may be used within the Residential Permit Allocation System to increase density, subject to the limitations contained in the land development regulations. The Maximum Net Density is the maximum density allowable with the use of TDRs, and shall not exceed the maximum densities established in this plan. Density~~ The transfers assignment of TDRs to Big Pine Key, No Name Key, and North Key Largo from other areas of the County shall be prohibited.

AMENDMENT #25

Delete Policy 101.13.5.⁴⁴

Policy 101.13.5

~~As part of the first annual review of the Point System, positive points, or "Potential Development Credits" (PDCs) shall be awarded for applications proposing non-residential development which will transfer development rights away from eligible sender sites to eligible receiver sites. PDCs shall be awarded to commercial projects for TDRs transferred from either residential or commercial zones.~~

⁴² The staff believes the use of TDRs and PDCs in the permit allocation process has little merit and would be too cumbersome to implement.

⁴³ This revision reflects the elimination of the authority to use TDRs in allocation system.

⁴⁴ This revision reflects an update of the policy and the staff's proposal to eliminate the PDCs concept from further consideration.

AMENDMENT #26

Amend and renumber Policy 101.13.6 as follows:

Policy 101.13.6101.13.4

~~In conjunction with the first annual review of the Point System evaluation of the existing TDR program pursuant to Policy 101.13.2, parcels within the following habitats and land use districts shall be designated as sender sites for Transferable Development Rights (TDRs) and Potential Development Credits (PDCs):~~

Any parcel within these zoning categories:

Offshore Island (OS)	Sparsely Settled (SS)
Mainland Native (MN)	Parks and Refuge (PR)
Native (NA)	Conservation (C)

Habitat of the following types which lie within any zoning category:

Freshwater wetlands
Saltmarsh/Buttonwood wetlands
High quality high hammock
High quality low hammock
Moderate quality high hammock
Moderate quality low hammock
High quality pinelands
Low quality pinelands
Beach/berm
Palm Hammock
Cactus Hammock
Disturbed Wetlands

AMENDMENT #27

Delete Policy 101.13.7 and Policy 101.13.8.⁴⁵

Policy 101.13.7

~~In conjunction with the first annual review of the Point System, the following guidelines shall be used to establish positive point awards in the Residential Permit Allocation System for each PDC:~~

<u>Sender Site</u>	<u>Receiver Site</u>	<u>PDC Points</u>
Freshwater wetland	scarified, in UR	most points
	MU	
	IS	

⁴⁵ The deletion of these policies reflects the proposal to eliminate the concept of PDCs.

~~SR~~ ~~SR (disturbed land not~~
~~to include wetlands)~~ ~~least points~~

Policy 101.13.8

~~In conjunction with the first annual review of the Point System, the following guidelines shall be used to establish point awards in the Non-residential Permit Allocation System for each PDC:~~

<u>Sender Site</u>	<u>Receiver Site</u>	<u>PDC Points</u>
Freshwater wetland	UC	most points
	SC	
	MU	
SR	SC or MU	least points

AMENDMENT #28

Amend and renumber Policy 101.13.9 as follows:⁴⁶

Policy ~~101.13.9~~ 101.13.5

~~No later than one year from the effective date of this plan,~~ In conjunction with the evaluation of the TDR program pursuant to Policy 101.13.2 and no later than one year from the date when the County's Geographic Information System is fully functional, Monroe County shall map potential TDR sender and receiver sites as specified in ~~Policies 101.13.6 through 101.13.9~~ Policy 101.13.4, and shall map parcels from which development rights have been transferred. These maps shall be updated as necessary and made available to Growth Management staff and public for use in the development review process.

AMENDMENT #29

Amend Policy 102.3.1 as follows:⁴⁷

Policy 102.3.1

The Permit Allocation System (see Future Land Use Objectives 101.2 through 101.4 and related policies) shall have the following environmental protection goals:

1. to reduce the exposure of residents to natural hazards;
2. to reduce disturbances to natural vegetation resource areas;
3. to reduce disturbances to terrestrial wildlife resources areas;
4. to reduce impacts of new development ~~on groundwater and~~ nearshore waters;

⁴⁶ This revision reflects proposed revisions to preceding policies.

⁴⁷ The revisions reflect changes in the proposed ROGO system.

5. to acquire vacant privately-owned environmentally sensitive lands for conservation and resource protection;
6. to encourage infill development where existing lands are already substantially developed, served by complete infrastructure facilities and within close proximity to established commercial areas and have few sensitive or significant environmental features;
7. to ensure that the ecological integrity of natural areas is protected when land is developed; and
8. to reduce adverse impacts on endangered and threatened species.

Accordingly, the Point System, which shall be used as the basis for the annual allocation of permits, shall assign negative and/or positive points to development applications ~~based upon:~~ that helps to achieve the above environmental protection goals.

- ~~1. the occurrence of natural resources or natural hazards; and/or~~
- ~~2. proposed utilization of best management practices for wastewater treatment and disposal which will avoid or mitigate the adverse impacts of development on natural resources, particularly water quality.~~

(See Future Land Use Objective 101.5 and related policies for a list of positive and negative factors to be included in the Permit Allocation System.) [9J-5.006(3)(c)1 and 6]

PROPOSED AMENDMENTS TO THE
LDRS TO REVISE ROGO (SECTIONS
9.5-120 THROUGH 9.5-123 AND
SECTIONS 9.5-125 THROUGH 9.5-
140) AND AFFORDABLE HOUSING
(SECTION 9.5-266)
[COMPETITIVE ROGO SYSTEM]

DRAFT
OCTOBER 25, 2004

**PROPOSED AMENDMENTS TO LDRS TO REVISE
ROGO (SECTIONS 9.5-120 THROUGH 9.5-123 AND
SECTIONS 9.5-125 THROUGH 9.5-140)
AND AFFORDABLE HOUSING (SECTION 9.5-266)
[COMPETITIVE ROGO SYSTEM]**

AMENDMENT #1

Amend Sections 9.5-120 through 9.5-123 and Sections 9.5- 125 through 9.5-140 to read as follows:

DIVISION 1.5 RATE OF GROWTH ORDINANCE

Sec. 9.5-120. Residential rate of growth ordinance (ROGO).

- (a) *Purpose and intent:* The purposes and intent of residential ROGO are:
- (1) To facilitate implementation of goals, objectives and policies set forth in the comprehensive plan relating to protection of residents, visitors and property in the county from natural disasters, specifically including hurricanes;
 - (2) To limit the annual amount and rate of residential development commensurate with the county's ability to maintain a reasonable and safe hurricane evacuation clearance time;
 - (3) To regulate the rate and location of growth in order to further deter deterioration of public facility service levels, environmental degradation and potential land use conflicts;
 - (4) To allocate the limited number of dwelling units available annually hereunder, based upon the goals, objectives and policies set forth in the comprehensive plan; and,
 - (5) ¹To implement Goal 105 of the comprehensive plan.

(b) *Definitions:* The words or phrases used in this division shall have the meanings prescribed in this chapter, except as otherwise indicated as follows:²

Allocation period means a defined period of time within which applications for the residential ROGO allocation will be accepted and processed.

¹ Added to include Goal 105 to the purpose and intent.

² The definitions for threatened and endangered species have been removed, the previous criteria are no longer needed since they are included in the Tier map designations.

Annual allocation period means the twelve-month period beginning on July 13, 1992, (the effective date of the original dwelling unit allocation ordinance), and subsequent one-year periods.

Annual residential ROGO allocation means the maximum number of dwelling units for which building permits may be issued during an annual allocation period.

Buildable lot or parcel means the lot or parcel must contain a minimum of two-thousand (2,000) square feet of upland, including any disturbed wetlands that can be filled pursuant to this chapter.

Controlling date means the date and time a ROGO application is submitted. This date shall be used to determine the annual anniversary date for receipt of a perseverance point(s) and shall determine precedence when ROGO applications receive identical ranking scores. A new controlling date shall be established based upon the re-submittal date and time of any withdrawn or revised application, except pursuant to section 9.5-122.1 (h).

Quarterly allocation period means the three-month period beginning on July 13, 1992, or such other date as the board may specify, and successive three-month periods.

Quarterly residential ROGO allocation means the maximum number of dwelling units for which building permits may be issued in a quarterly allocation period.

Residential dwelling unit means a dwelling unit as defined in section 9.5-4 of the Monroe County Code, and expressly includes the following other terms also specifically defined in section 9.5-4: hotel rooms, campground spaces, mobile homes, transient residential units, institutional residential units (except hospital rooms) and live-aboards.

Residential ROGO allocation means the maximum number of dwelling units for which building permits may be issued in a given time period.

Residential ROGO allocation award means the approval of a residential ROGO application for the issuance of a building permit.

ROGO application means the residential ROGO application submitted by applicants seeking allocation awards.

Sec. 9.5-120.1. General provisions.

(a) *Residential ROGO allocation award required:* No building permit shall be issued unless the dwelling unit has received a residential dwelling unit allocation award, or is determined to be exempt as provided below.

(b) *Effective date:* Any ROGO application which has not received an allocation award as of the effective date of this division shall be processed and evaluated pursuant to the provisions of this division.

(c) *Yearly review and monitoring:* As required by the comprehensive plan, as requested by the planning commission or the board, or as otherwise necessary, the planning director shall consider the rate, amount, location, and ratio of market rate to affordable housing residential dwelling units available for development in the county. The planning director shall also monitor the effects of such development and determine the conformity of such development with the comprehensive plan and this chapter. This review, in whole or in part, may form the basis for recommendations by the planning director or the planning commission to the board for action to repeal, amend or modify the ROGO allocation system.

(d) *Affected area:* The ROGO allocation system shall apply within the unincorporated area of Monroe County, Florida, which, for purposes hereof, has been divided into subareas as follows:

- (1) Upper Keys: The unincorporated area of Monroe County north of Tavernier Creek and corporate limits of the Village of Islamorada (approximately mile marker 90).
- (2) Lower Keys: The unincorporated area of Monroe County from the corporate limits of the Village of Islamorada (approximately mile marker 72) south to the corporate limits of the City of Key West at Cow Key Bridge on U.S. Highway 1 (approximately mile marker 4), excluding Big Pine Key and No Name Key.³
- (3) Big Pine Key and No Name Key: The islands of Big Pine Key and No Name Key within unincorporated Monroe County.

Sec. 9.5-120.2. Type of development affected

The residential ROGO shall apply to all residential dwelling units for which a building permit is required by this chapter and for which building permits have not been issued prior to the effective date of the ROGO allocation system, except as otherwise provided herein.

Sec. 9.5-120.3. Type of development not affected.

The residential ROGO shall not apply to the development described below:

(a) *Redevelopment on-site:* Redevelopment, rehabilitation or replacement of any lawfully established residential dwelling unit or space which does not increase the

³ The Middle and Lower Keys are combined because of the small area of unincorporated Monroe County remaining within the existing middle Keys boundary.

number of residential dwelling units above that which existed on the site prior to the redevelopment, rehabilitation or replacement.

(b) *Transfer off-site*: Transfer off-site shall consist of either the demolition or a change of use from residential to non-residential of a unit or space from a sender site and the development of a new unit on a receiver site as indicated below.

(1) *Eligibility of sender unit or space*: A hotel room, mobile home, dwelling unit, or recreational vehicle/campground space that is lawfully established.

(2) *Criteria for redevelopment off-site*: In order to redevelop off-site, a receiver site must be evaluated for both its structural and site conditions.

a. *Transfer to a hotel*: A hotel or hotel room may be developed if the:

(i) Sender unit is eligible and provided that it was used as a hotel room in accordance with section 9.5-4; and⁴

(ii) Receiver site meets all of the following criteria:⁵

(1) Is located in the same ROGO subarea as the sender site; and

(2) ⁶Is located within a Tier III designated area.

b. *Transfer to affordable housing*: An affordable housing unit may be developed if the receiver unit meets all of the following criteria:

(i) The proposed unit is an affordable house pursuant to sections 9.5-4(A-5) and 9.5-266; and

(ii) Is located in the same ROGO subarea as the sender site; and

(iii) Is located in a Tier III designated area or, if located in a Tier II designated area, clearing of upland native vegetation is limited to less than five-thousand (5,000) square feet or the open space requirements of Section 9.5-347, whichever is less.⁷

⁴ The provision to allow transfer of recreational vehicle spaces has been deleted; County currently has a moratorium on such transfers.

⁵ The requirement that affordable housing must be attached has been removed to allow transfers to single-family lots.

⁶ Transfer will only be allowed in Tier III areas in conformance with Goal 105 and the FKCCS.

⁷ This implements new Policy 205.2.7

(3) *Procedures for transfer off-site:*

- a. ⁸A pre-application conference and at a minimum, a minor conditional use permit, shall be required for both the sender site and the receiver site. The minor conditional use for the transfer shall be reviewed pursuant to criteria in section 9.5-120.3 and not criteria in section 9.5-65. The sender site shall not require posting.
- b. A sender unit shall be assigned a unique identifier number that shall be used for tracking and monitoring by the planning department. Multiple units to be transferred from a sender site may be authorized under a single conditional use approval.
- c. The unique identifier number shall be itemized in the conditional use permits required for both the sender and receiver sites.

(4) *Conditions for Issuance of Permit:* No building permit shall be issued for the new unit on the receiver site until one of the following conditions is met:

- a. The unit is demolished as per an issued demolition permit and a final inspection for the demolished unit or space has been completed by the building department for the sender site; or
- b. The unit is removed pursuant to a development approval, development order, or a development permit is issued and a final inspection for the removed unit is completed by the building department for the sender site.

(c) *Nonresidential use:* Nonresidential uses are not affected by residential ROGO.

(d) *Development not increasing hurricane evacuation times:* Any applicant that can demonstrate with a traffic study acceptable to Monroe County traffic engineers that their proposed development will not increase hurricane evacuation times. All residential dwelling units to be located in the area designated as Zone 7 (North Key Largo area) are deemed not to increase hurricane evacuation times.

(e) *Public/governmental uses:* Public/governmental uses, including capital improvements and public buildings, as are defined in section 9.5-4.

(f) *Other nonresidential development:* Any other use, development, project, structure, building, fence, sign or activity, which does not result in a new residential dwelling unit.

⁸ The minor conditional use process is required for accounting purposes only.

(g) *Vested rights*: Landowners with a valid, unexpired development of regional impact approval granted by the county prior to July 13, 1992, shall be exempt from the residential ROGO system.

Sec. 9.5-120.4. Moratorium on new transient units.

New transient residential units, such as hotel or motel rooms, or campground, recreational vehicle or travel trailer spaces, shall not be eligible for residential ROGO allocations until December 31, 2006.

Sec. 9.5-121. Reserved.

Sec. 9.5-122. Residential ROGO allocations.

⁹(a) *Number of Available Annual Residential ROGO Allocations*: The number of market rate residential ROGO allocations available in each subarea of unincorporated Monroe County and the total number of affordable residential ROGO allocations available county-wide on a yearly basis shall be as follows:

<u>Subarea</u> ¹⁰	<u>Number of Dwelling Units</u>
Upper Keys	61
Lower Keys	57
Big Pine and No Name Keys	<u>8</u>
Total Market Rate	126
Affordable dwelling units	
Very Low, Low, and Median Incomes	36*
Moderate Income	<u>35*</u>
	71
¹¹ Total units a year	197

*Includes one (1) for Big Pine Key and No Name Key.

- (1) *Yearly residential ROGO allocation ratio*: Each subarea shall have its number of market rate residential ROGO allocations available per ROGO year. Affordable ROGO allocations shall be available for county-wide allocation except for Big Pine Key and No Name Key. The annual

⁹ The allocation formula is revised from the 1992 analysis excluding the IS and URM vacant lots on Big Pine Key and No Name Keys, which contain 1586 lots, 20% of the total vacant lots and 34% of the lots in the Lower Keys. The allocation for BPK and NNK is based on the HCP. The totals for market rate and affordable housing reflect the draft Rule proposed by the Florida Administration Commission.

¹⁰ The Lower and Middle Keys ROGO planning areas have been combined due to incorporation of Islamorada and Marathon.

¹¹ The number of allocations is based on the current allocation of 197 for the County excluding the 20 percent reduction enacted by the Florida Administration Commission.

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allocations for Big Pine Key and No Name Key shall be eight (8) market rate and two (2) affordable dwelling units.

- (2) *Quarterly residential ROGO allocation ratio:* Each subarea shall have its number of market rate housing residential ROGO allocations available per ROGO quarter determined by the following formula:
 - a. Market rate residential ROGO allocations available in each subarea per quarter is equal to the market rate residential ROGO allocations available in each subarea divided by four (4).
 - b. Affordable housing residential ROGO for all four (4) ROGO quarters including the two available for Big Pine Key shall be made available at the beginning of the first quarter for a ROGO year.
- (3) *Ratio of affordable housing ROGO allocations to market rate ROGO allocations:* Prior to October of each year, the board of county commissioners may adopt a resolution changing the ratio of affordable housing to market rate ROGO allocations based upon the recommendations of the planning director and planning commission arising from the annual review of ROGO. This ratio may be amended pursuant to the following:
 - a. The percentage of affordable housing shall never be less than twenty (20) percent of the total ROGO allocations available or the minimum established by rule of the Florida Administration Commission, whichever is greater.
 - b. The increase or decrease in the percentage of affordable housing of the total ROGO allocations available shall not exceed fifty (50) percent of the previous year's ROGO allocations to market rate and affordable housing.
- (4) *Ratio of very low income, low income, and median income allocations to moderate income allocations:* The Planning Commission may amend these proportions for affordable housing during any ROGO quarter.
- (5) *Big Pine Key and No Name Key:* All residential development on Big Pine Key and No Name Key is subject to the provisions of the Incidental Take Permit and the Habitat Conservation Plan for the Florida Key Deer and other covered species, which may affect ROGO allocations under this chapter.¹²

¹² This language is necessary to provide the basis for making unforeseen adjustments in the ROGO allocations on Big Pine Key and No Name Key that may be necessitated by the restrictions contained in the "H" budget of the HCP and Incidental Take Permit.

(b) *Reservation of affordable housing allocations:* Notwithstanding the provisions of section 9.5-122.2 for awarding of allocations for affordable housing, the board of county commissioners may reserve by resolution some or all of the available affordable housing allocations for award to certain sponsoring agencies or specific housing programs consistent with all other requirements of this chapter. Building permits for these reserved allocations shall be picked up within six (6) months of the effective reservation date, unless otherwise authorized by the board of county commissioners in its resolution. The board of county commissioners may at its discretion place conditions on any reservation as it deems appropriate. These reservations may be authorized by the board of county commissioners for:¹³

- (1) The Monroe County Housing Authority, nonprofit community development organization(s) pursuant to section 9.5-266(e), and other public entities established to provide affordable housing by entering into a memorandum of understanding with one or more of these agencies;
- (2) Specific affordable or employee housing projects participating in a federal/state housing financial assistance or tax credit programs or receiving some form of direct financial assistance from the county upon written request from project sponsor and approved by resolution of the board of county commissioners;
- (3) Specific affordable or employee housing projects sponsored by non-governmental not-for profit organizations above upon written request from the project sponsor and approved by resolution of the board of county commissioners;
- (4) Specific affordable or employee housing programs sponsored by the county pursuant to procedures and guidelines established time to time by the board of county commissioners;
- (5) Specific affordable or employee housing projects by any entity, organization, or person, contingent upon transfer of ownership of the underlying land for the affordable housing project to the county, a not-for-profit community development organization(s), or other entity approved by the board of county commissioners, upon written request from the project sponsor and approved by resolution of the board of county commissioners; or

¹³ This provision codifies the practice of the County to provide allocations for specific projects and gives the Board more flexibility in applying these allocations to where they are most needed. It eliminates the need for these projects to go through the ROGO competition process and provides some certainty to housing provider agencies for planning and funding of their housing projects. Furthermore, this proposed language provides additional incentives for owners of non-residential properties to provide affordable rental housing and employers to provide on-site housing for employees.

- (6) Rental employee housing projects, situated on the same parcel of land as the non-residential workplace for the tenants of these projects, upon written request from the property owner and approved by resolution of the board of county commissioners.
- (c) *Affordable housing allocation awards and eligibility:*
 - (1) The definition of affordable housing shall be as specified in sections 9.5-4 and 9.5-266.
 - (2) Any portion of the annual affordable housing allocation not used for affordable housing at the end of a ROGO year shall be made available for affordable housing for the next ROGO year.
 - (3) Any portion of the residential ROGO allocations not used shall be retained and be made available for affordable housing from ROGO year to ROGO year.
 - (4) ¹⁴No affordable housing allocation shall be awarded to applicants located within a Tier I designated area, within a V-zone on the county's flood insurance rating map, or within a Tier II designated area that results in the clearing of upland native vegetation of more than five-thousand (5,000) square feet or the open space requirements of Section 9.5-347, whichever is less.
 - (5) ¹⁵Only affordable housing allocations for Big Pine Key may be used on Big Pine Key. No affordable housing allocation may be used on No Name Key.
- (d) *Residential dwelling unit allocation required:* From and after the effective date of the dwelling unit allocation system, the county shall issue no building permit for a residential dwelling unit unless such dwelling unit:
 - (1) Has a residential dwelling unit allocation award; or
 - (2) Is exempted from the dwelling unit allocation system pursuant to this chapter or is deemed vested pursuant to section 9.5-120.3.

¹⁴ As all future development is to be discouraged within Tier I, it would be inappropriate to provide incentives for affordable housing program in areas where development should not occur. Furthermore, in Tier II clearing of existing tropical hardwood hammock or pinelands should be limited to protect isolated, but locally important environmental habitats.

¹⁵ The HCP for BPK and NNK only allows for a total of 10 permits to be issued under a ROGO allocation per year.

Section 9.5-122.1 Application procedures for residential ROGO.

(a) *Application for allocation:* In each quarterly allocation period, the department of planning and environmental resources shall accept applications to enter the residential ROGO system on forms prescribed by the planning director. Except for allocations to be reserved and awarded under section 9.5-122 (b), the ROGO application form must be accompanied by an approved building permit application and a nonrefundable processing fee in order to be considered in the current allocation period. The planning director shall review the ROGO application for completeness. If determined to be incomplete, the planning director shall reject the ROGO application and notify the applicant of such rejection, and the reasons therefore, within ten (10) working days. The application shall be assigned a controlling date that reflects the time and date of its submittal unless the application is determined to be incomplete. If the application is rejected then the new controlling date shall be assigned when a complete application is submitted.

(b) *Fee for review of application:* Each ROGO application shall be accompanied by a nonrefundable processing fee as may be established by resolution of the board. Additional fees are not required for successive review of the same ROGO application unless the application is withdrawn and resubmitted.

(c) *Compliance with other requirements:* The ROGO application shall indicate whether the applicant for a residential dwelling unit allocation has satisfied and complied or not with all county, state and federal requirements otherwise imposed by Monroe County regarding conditions precedent to issuance of a building permit and shall require that the applicant certify to such compliance.

(d) *Non-county time periods:* The county shall develop necessary administrative procedures and, if necessary, enter into agreements with other jurisdictional entities which impose requirements as a condition precedent to development in the county, to ensure that such non-county approvals, certifications and/or permits are not lost due to the increased time requirements necessary for the county to process and evaluate residential dwelling unit applications and issue allocation awards. The county may permit evidence of compliance with the requirements of other jurisdictional entities to be demonstrated by "coordinating letters" in lieu of approvals or permits.

(e) *Limitation on number of applications:*

- (1) An individual entity or organization may submit only one (1) ROGO application per unit in each quarterly allocation period.
- (2) There shall be no limit on the number of separate parcels for which ROGO applications may be submitted by an individual, entity or organization.

- (3) A ROGO application for a given parcel shall not be for more dwelling units than are permitted by this chapter or the comprehensive plan.

(f) *Expiration of allocation award:* Except as provided for in this division, an allocation award shall expire when its corresponding building permit is not picked up after sixty (60) days of notification by certified mail of the award or, after issuance of the building permit, upon expiration of the permit pursuant to chapter 6.0.¹⁶

- (g) *Borrowing from future housing allocations:*

- (1) The planning commission may award additional units from future annual dwelling unit allocations to fully grant an application for residential units in a project if such an application receives an allocation award for some, but not all, of the units requested.¹⁷
- (2) The board of county commissioners in approving affordable housing allocations pursuant to section 9.5-122 (c) may award additional units from future annual dwelling unit allocations if the number of available allocations is insufficient to meet specific project needs.¹⁸
- (3) The planning commission or board of county commissioners shall not reduce any future allocation by more than twenty (20) percent and shall not apply these reductions to more than five (5) annual allocations or twenty (20) quarterly allocations.¹⁹

(h) ²⁰*Revision of ROGO application:* An applicant may elect to revise a ROGO application to increase the competitive points in the application without prejudice or change in the controlling date, if a revision is submitted on a form approved by the planning director to the planning and environmental resources department by no later than thirty (30) days following the planning commission approval of the previous ROGO rankings.

- (i) *Clarification of application data:*

- (1) At any time during the dwelling unit allocation review and approval process, the applicant may be requested by the director of planning or the

¹⁶ The existing language has been revised to reflect adopted amendments in the Building Code (Chapter 6.0) and Section 9.5-113.

¹⁷ This revised language expands the eligibility of units to apply future allocations from multi-family to any type of residential unit in a multi-unit project.

¹⁸ This new language gives the board, similar to the planning commission, authority to borrow future allocations for affordable housing.

¹⁹ The current borrowing provisions have no limit to the number of years or quarters from which these borrowed allocation can come. This loophole is closed with this five-year limit.

²⁰ The existing language has been revised to provide greater flexibility for applicants, as no public interest is served to penalize an applicant for adding additional points through dedication or aggregation of lots/land.

planning commission, to submit additional information to clarify the relationship of the allocation application, or any elements thereof, to the evaluation criteria. If such a request is made, the director of planning shall identify the specific evaluation criterion at issue and the specific information needed and shall communicate such request to the applicant.

- (2) Upon receiving a request from the director of planning for such additional information, the applicant may provide such information; or the applicant may decline to provide such information and allow the allocation application to be evaluated as submitted.

(j) ²¹ *Existing ROGO applications:* All applications in the ROGO system prior to the effective date of this ordinance shall be re-scored pursuant to criteria in section 9.5-122.4 and retain all existing perseverance points.

Sec. 9.5-122.2. Evaluation procedures for residential dwelling unit allocation.

(a) *Adjustment of residential ROGO allocations:* At the end of each quarterly allocation period, the planning director shall recommend additions or subtractions to the basic allocation available by subarea, based upon any of the following, as appropriate:

- (1) The number of building permits for new residential units issued which expired pursuant to chapter 6.0.
- (2) The number of dwelling unit allocation awards that expired prior to issuance of a corresponding building permit and which were awarded in the current annual allocation period;
- (3) The number of residential ROGO allocation awards available which were not allocated during the quarterly allocation period in the current annual allocation period;
- (4) The number of residential ROGO allocation awards in previous quarters which were borrowed from future allocations to accommodate multiple unit projects or to accommodate allocation applications with identical scores, pursuant to section 9.5-122.2(b)(2) or which were granted to applicants via either the appeals process, administrative relief or a beneficial use determination;
- (5) Residential ROGO allocations vested during the preceding quarter;
- (6) Any other modifications required or provided for by the comprehensive plan or an agreement pursuant to chapter 380, Florida Statutes;

²¹ This provision vests applicants who are currently in the system for the points they have accrued for the years they have been in ROGO.

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- (7) The receipt or transfer of affordable housing allocations from or to municipalities pursuant to this chapter;
 - (8) Allocations reserved and/or awarded by the board of county commissioners pursuant to section 9.5-122 (c).
- (b) *Initial evaluation of allocation applications:* Upon receipt of completed allocation applications, the director of planning shall evaluate the allocation applications for market rate housing pursuant to the evaluation criteria set forth in section 9.5-122.3.
- (1) Except for affordable housing, the director of planning shall classify each allocation application by subarea.
 - (2) On the evaluation cover page, for each allocation application, the director of planning shall indicate the subarea and the number of dwelling units for which allocation awards are being requested. Market rate allocation applications shall be aggregated by subarea. Affordable housing allocation applications shall be aggregated on a county-wide basis.
 - (3) Within thirty (30) days of the conclusion of a quarterly allocation period, unless otherwise extended by the board, the director of planning shall for market rate allocations:
 - a. Complete the evaluation of all allocation applications submitted during the relevant allocation period;
 - b. Total the number of dwelling units by subarea for which allocation applications have been received; and
 - c. Rank the allocation applications in descending order from the highest evaluation point total to the lowest.
 - (4) Within thirty (30) days of the conclusion of a quarterly allocation period, unless otherwise extended by the board, the director of planning shall for affordable housing allocations.²²
 - a. Complete review of all allocation applications to confirm eligibility of applicants during the relevant allocation period;
 - b. Total the number of dwelling units for unincorporated Monroe County for which affordable housing allocation applications have been received; and,

²² This approach reflects that affordable housing will not have to compete under the new ROGO system. Awarding of allocations will be done on a first-come, first served basis.
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- c. List the affordable housing allocation applications in descending order of controlling date from earliest to latest date.
- (5) If the number of dwelling units represented by the allocation applications for market rate housing, by subarea, is equal to or less than the quarterly allocation, the director of planning may make a recommendation to the planning commission that all of the allocation applications for that subarea be granted allocation awards.
 - (6) If the number of dwelling units represented by the allocation applications for affordable housing is equal to or less than the available allocation, the director of planning may make a recommendation to the planning commission that all of the allocation applications be granted allocation awards.
 - (7) If the number of dwelling units represented by the allocation applications for market rate housing, by subarea, is greater than the quarterly allocation, the director of planning shall submit an evaluation report to the planning commission indicating the evaluation rankings and identifying those allocation applications whose ranking puts them within the quarterly allocation, and those allocation applications whose ranking puts them outside of the quarterly allocation.
 - (8) If the number of dwelling units represented by the allocation applications for affordable housing is greater than the total available allocation, the director of planning shall submit a report to the planning commission indicating the applications in order of their control dates and identifying those allocation applications for which sufficient allocations exist and those allocation applications whose ranking by controlling date puts them outside the available allocation.
- (c) *Public hearings:* Upon completion of the evaluation ranking report and/or recommendation, the director of planning shall schedule and notice a public hearing by the planning commission pursuant to otherwise applicable regulations.
- (1) At or prior to the public hearing, the planning commission may request, and the director of planning shall supply, copies of the allocation applications and the director of planning evaluation worksheets.
 - (2) Upon review of the market rate allocation applications and evaluation worksheets, the planning commission may adjust the points awarded for meeting a particular criteria, adjust the rankings as a result of changes in points awarded, or make such other changes as may be appropriate and justified.

- (3) The basis for any planning commission changes in the scoring or ranking of market rate applications shall be specified in the form of a motion to adopt the allocation rankings and may include the following:
 - a. An error in the designation of the applicable subarea.
 - b. A mistake in the calculation of dedicated or aggregated lots/land.
 - c. A mistake in assignment of the Tier map designation in the application.
 - d. Any other administrative error or omission that may cause the application to be incorrectly scored.
- (4) The public, including, but not limited to, applicants for allocation awards, shall be permitted to testify at the public hearing. Applicants may offer testimony about their applications or other applications; however, in no event may an applicant offer modifications to an application that could change the points awarded or the ranking of the application.
- (5) At the conclusion of the public hearing, the planning commission may:
 - a. Move to accept the evaluation rankings for market rate housing applications and rankings for affordable housing applications as submitted by the director of planning.
 - b. Move to accept the rankings as may be modified as a result of the public hearing.
 - c. Move to continue the public hearing to take additional public testimony.
 - d. Move to close the public hearing but to defer action on the evaluation rankings pending receipt of additional information.
 - e. Move to reject the rankings.
- (6) The planning commission shall finalize the rankings within sixty (60) days following initial receipt of the director of planning evaluation ranking, report and recommendations.
 - (d) *Notification to applicants:* Upon finalization of the evaluation rankings by the planning commission, notice of the rankings, by subarea for market rate housing, and county-wide for affordable housing, shall be posted at the planning department offices and at such other places as may be designated by the planning commission.

- (1) Applicants who receive allocation awards shall be further notified by certified mail, return receipt requested. Except as provided herein for allocations for affordable housing awarded by the board of county commissioners pursuant to section 9.5-122(b) and paragraph (g) below, upon receipt of notification of an allocation award, the applicant may request issuance of a building permit for the applicable residential dwelling unit.

- (2) ²³Applicants who fail to receive allocation awards shall be further notified by regular mail; without further action by such applicants nor the payment of any additional fee, such applications shall remain in the residential ROGO system for reconsideration in the next succeeding quarterly allocation period.

(e) ²⁴*Identical rankings for market rate housing applications:* If two (2) or more allocation applications in a given subarea have identical evaluation points, these applications shall be ranked in descending order from the earliest controlling date of submission to the latest. The planning commission may approve two (2) or more allocation applications with identical rankings and controlling dates despite the fact that the quarterly allocation will be exceeded if:

- (1) A clear statement of findings of fact are made justifying the decision; and
- (2) The excess allocation is reduced from the next succeeding quarterly allocation period or is reduced pro rata from the next three (3) quarterly allocation periods

(f) *Identical controlling dates for affordable housing applications:* If two (2) or more allocation applications for affordable housing have identical controlling dates and at least one affordable housing allocation remains available to be awarded, the planning commission may approve two (2) or more allocation applications with identical rankings through borrowing of future allocations pursuant to section 9.5-122.1 (g).

(g) *Multi-unit affordable housing projects:* Upon the written approval of the planning director, the expiration period for an allocation award for affordable multi-unit housing projects may be extended where the applicant is unable to be granted a sufficient number of allocations required to initiate the project.²⁵

²³ This revised language removes the certified mail requirement for notification of applicants who do not receive an award reducing costs and time requirements.

²⁴ This section has been rewritten to make it more clear that the controlling date is used to break "ties" among applications with identical scores.

²⁵ This codifies a policy of the Growth Management Division in assisting affordable multi-family projects.
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9.5-122.3. Administrative relief.

(a) *Eligibility:* An applicant for an allocation award is eligible for administrative relief if:²⁶

- (1) The application complies with all requirements of the dwelling unit allocation system; and
- (2) Was considered in the first four (4) consecutive annual allocation periods; and
- (3) Has not received an allocation award.

(b) *Application:* An application for administrative relief shall be made on a form prescribed by the director of planning and may be filed with the planning and environmental resources department no earlier than the conclusion of the fourth annual allocation period and no later than one hundred twenty (120) days following the close of the fourth annual allocation period.²⁷

(c) *Forwarding application to board:* Upon the filing of an application for administrative relief, the director of planning shall forward to the board all relevant files and records relating to the subject applications. Failure to file an application shall constitute a waiver of any rights under this section to assert that the subject property has been taken by the county without payment of just compensation as a result of the dwelling unit allocation system.

(d) *Public hearing:* Upon receipt of an application for administrative relief, the board shall notice and hold a public hearing at which the applicant will be given an opportunity to be heard. The board may review the relevant applications and applicable evaluation ranking, taking testimony from county staff and others as may be necessary and hear testimony and review documentary evidence submitted by the applicant.

(e) *Board's action:* At the conclusion of the public hearing, the board may take any or a combination of the following actions:

- (1) Grant the applicant an allocation award for all or a number of dwelling units requested in the next succeeding quarterly allocation period or extended pro rata over several succeeding quarterly allocation periods.

²⁶ This revision is intended to address the administrative problems created by applicants filing before the four-year period. The existing language has been further revised to improve its readability.

²⁷ Since the applicants must wait until their application has been in the system for four consecutive years, it would be appropriate to provide additional time (120 rather than the current 90 days) for filing of administrative relief application.

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- (2) ²⁸Offer to purchase the property at its fair market value if the property is located within:
- a. a designated Tier I area;
 - b. a designated Tier II area requiring the clearing of five-thousand (5,000) or more square feet of upland native vegetation;
 - c. a designated Tier II or Tier III area on a non-waterfront lot suitable for affordable housing.

- (3) Suggest or provide such other relief as may be necessary and appropriate.

²⁹**Sec. 9.5-122.4. Evaluation criteria.**

The point values established on the following pages are to be applied cumulatively.

(a) *Tier designation:* The following points are intended to discourage development in environmentally sensitive areas and to direct and encourage development in appropriate infill areas, while recognizing that any development has an impact on the carrying capacity of the Florida Keys:

<i>Point Assignment:</i>	<i>Criteria:</i>
0	An application which proposes a dwelling unit within an area designated Tier I [Natural Area].
+10	An application which proposes development within an area designated Tier II [Transition and Sprawl Reduction Area] on Big Pine Key or No Name Key.
+20	An application which proposes development within an area designated Tier II [Transition and Sprawl Reduction Area] outside of Big Pine Key or No Name Key.
+20	An application which proposes

²⁸ These regulations provide specific criteria to be followed in acquiring land under Administrative Relief.

²⁹ The points, which can be obtained to make a project more competitive, have been reduced to only include those that are awarded for reducing development potential county-wide and acquiring environmental lands threatened by development. The initial point assignment given to the applications depending on the Tier where the proposed development is located incorporates both the previously applied negative environmental and positive infill criteria. Most of the building points that were previously assigned for wind load and sustainability have been eliminated or are no longer meaningful due to changes in the Florida Building Code.

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	development within an area designated Tier III [Infill Area] on Big Pine Key or No Name Key.
+30	An application which proposes development within an area designated Tier III [Infill Area] outside of Big Pine Key or No Name Key.

(b) *Big Pine Key and No Name Key only:* The following additional negative points are intended to implement the Habitat Conservation Plan and the Livable CommuniKeys Community Master Plan for Big Pine Key and No Name Key.

<i>Point Assignment:</i>	<i>Criteria:</i>
-10	An application which proposes a dwelling unit on No Name Key.
-10	An application, which proposes development in designated Lower Keys Marsh Rabbit habitat or buffer areas as designated in the Community Master Plan.
-10	An application, which proposes development in Key Deer Corridor as designated in the Community Master Plan.

(c) *Lot aggregation:* The following points are intended to encourage the voluntary reduction of density through aggregation of vacant, legally platted, buildable lots with density allocation by lot.³⁰

<i>Point Assignment:</i>	<i>Criteria:</i>
+4	An application which aggregates a contiguous vacant, legally platted, vacant, buildable lot, zoned IS, IS-D, URM, URM-L, or CFV, located within a Tier II or Tier III designated area together with the parcel proposed for development.
	<i>Additional requirements</i>
	1. The proposed development shall not involve the clearing of upland native vegetation of more than 5,000 square

³⁰ Aggregation is not permitted in Tier I because it facilitates and encourages development of this critical upland habitat. The points have been raised for lot dedication to make them equal with lot aggregation to allow more flexibility in awarding points to donated platted lots that are not buildable.

	<p>feet of upland native vegetation or the open space requirements of section 9.5-347, whichever is less.³¹</p> <p>2. The application shall include but not be limited to the following:</p> <p>*An affidavit of ownership of all affected parcels, acreage or land; and</p> <p>*A legally binding restrictive covenant limiting the number of dwelling units on the aggregated lot, running in favor of Monroe County and enforceable by the county, subject to the approval of the growth management director and county attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award.</p>
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(d) *Land dedication:* The following points are intended to encourage the voluntary dedication of vacant, buildable land within Tier I and Tier II areas for the purposes of conservation, resource protection, restoration or density reduction, and if located within Tier II or Tier III, for the purpose of providing land for affordable housing where appropriate.³²

<i>Point Assignment:</i>	<i>Criteria:</i>
+4	An application which includes the dedication to Monroe County of one (1) vacant, legally platted buildable lot, zoned IS, IS-D, URM, URM-L, or CFV. Each additional vacant, legally platted, buildable lot which is dedicated that meets the above requirements will earn the application the additional points as specified.
+1 for each 5,000 square feet of lot area	An application which includes the dedication to Monroe County of a vacant legally platted, buildable lot of five thousand (5,000) square feet or more within a Suburban Residential District (SR) or Suburban Residential – Limited District

³¹ This reflects the change in Policy 205.2.7.

³² Allows land dedicated under ROGO in Tier II or Tier III, if appropriate, to be used for affordable housing.

	(SR-L) within a designated Tier I area. Each additional vacant, legally platted, buildable lot of five thousand (5,000) square feet or more that meets the above requirements will earn points as specified.
+0.5	An application which includes the dedication to Monroe County of one (1) vacant, legally platted, buildable lot of five thousand (5,000) square feet or more within a Native Area District (NA) or Sparsely Settled District (SS) in a designated Tier I area. Each additional vacant, legally platted, buildable lot that meets the above requirements will earn the half (0.5) point as specified.
+3	An application which includes dedication to Monroe County of at least one-acre (1) of vacant, unplatted, buildable land located within a designated Tier I area. Each additional one (1) acre of vacant, unplatted, buildable land that meets the above requirements will earn the points as specified.
	<i>Additional requirements:</i>
	<p>1. The application shall include but not be limited to the following:</p> <ul style="list-style-type: none"> * An affidavit of ownership of all affected lots, parcels, acreage or land; and * A statutory warranty deed, that conveys the dedicated property to the county shall be approved by the growth management director and county attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award. <p>2. Lots or parcels dedicated for positive points under this paragraph shall not be eligible for meeting the mitigation requirements of the Big Pine Key and No Name Key Overlay Zone.</p>

(f) *Market rate housing in employee or affordable housing project:* The following points are intended to provide further incentives for provision of market rate housing within employee housing projects:

<i>Point Assignment:</i>	<i>Criteria:</i>
+ 3	An application for market rate housing unit which is part of employee or affordable housing project.
	<i>Additional Requirements:</i>
	The market rate dwelling unit must be part of an approved employee or affordable housing project and meet all the requirements and conditions pursuant to section 9.5-266(a) and this chapter.

(g) *Special flood hazard area:* The following points are intended to discourage development within high risk special flood hazard zones:³³

<i>Point Assignment:</i>	<i>Criteria:</i>
- 4	An application which proposes development within a "V" zone on the FEMA Flood Insurance Rate Map.

(h) *Central wastewater treatment system availability:* The following points shall be assigned to encourage development in areas served by central wastewater treatment systems:³⁴

<i>Point Assignment:</i>	<i>Criteria:</i>
+ 4	An application which development required to be connected to a central wastewater treatment system that meets BAT/AWT standards established by the Florida Legislature.

³³ This revision eliminates the negative points for "A" zones, in which the predominate number of properties are located and the positive points for "X" zones that only affect a very insignificant number of properties.

³⁴ This language is intended to encourage infill development in areas served by central sewer systems being upgraded or constructed to meet 2010 Wastewater Treatment Standards mandate; maximize public investment; reduce the average EDU operating/maintenance costs of these systems; and, help recoup capital costs.

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(i) *Perseverance points:* The following points are intended to reward an application based upon the number of years spent in the residential ROGO system without receiving an allocation award.

<i>Point Assignment:</i>	<i>Criteria:</i>
+ 1	A point shall be awarded on the anniversary of the controlling date for each year that the application remains in the ROGO system up to four (4) years.
+ 2	Points shall be awarded on the anniversary of the controlling date for each year over four (4) that the application remains in the ROGO system.

(j) *Payment to land acquisition fund:* Up to three (3) points shall be awarded for a monetary payment to the County's Land Acquisition Fund for the purchase by the County of lands for conservation and affordable housing and retirement of development rights. Points for payment to this fund shall be assigned as follows:³⁵

<i>Point Assignment:</i>	<i>Criteria:</i>
+ 1 to +3	Proposes payment to the County's Land Acquisition Fund in an amount equal to the monetary value of a ROGO dedication point times the number of points to be purchased up to a maximum of three (3) points.
	<i>Additional Requirements:</i>
	<ol style="list-style-type: none"> 1. The monetary value of each point shall be established annually by resolution of the board of county commissioners. 2. The monetary value of each point shall be based upon the average ad valorem value of privately-owned, vacant, IS/URM platted lots divided by four (4). 3. Payment to the County's Land Acquisition Fund shall be made prior to the issuance of any building permit

³⁵ This new provision allows payment to a County Land Acquisition Fund in lieu of lot dedication; however, the number of points that can be purchased are limited to only three.

	pursuant to an allocation award.
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Sec. 9.5-123. Reserved

Sec. 9.5-125. Appeals.³⁶

(a) An appeal from the decision of the planning commission on a ROGO or NROGO allocation shall be made to the board of county commissioners. The notice of such appeal shall be in a form prescribed by the director of planning and must be filed with the director of planning within twenty (20) days of the planning commission's decision. Upon the filing of an appeal, the planning commission's secretary will forward to the board all relevant files and records relating to the matter. Failure to file an appeal with the board shall constitute a waiver of any rights under this chapter to further the decision of the planning commission on the awarded dwelling unit or non-residential floor space allocations.

(b) The filing of an appeal shall not stay either the action of the planning commission or the action of the director of planning.

(c) If, as a result of a successful appeal, additional allocation awards are to be made, the board shall instruct the director of planning as to how many dwelling units or non-residential floor space applications shall receive allocation awards, when such allocation awards are to be made and what effect such additional allocation awards will have on the current annual or quarterly dwelling unit allocation or current annual allocation for non-residential floor space. To ensure that the residential dwelling unit allocations set forth in section 9.5-122 and 9.5-124.4 are not exceeded, the director of planning shall inform the planning commission of the results of the appeal and the disposition of any additional allocation awards.

AMENDMENT #2

Amend Section 9.5-266(a)(5) as follows.³⁷

- (5) Notwithstanding the provisions of sections 9.5-261 through 9.5-270, some or all of any lawfully established floor area situated on a parcel ~~of at least one (1) gross acre containing affordable or employee housing~~ shall be excluded from the calculation of the total gross of development allowed on the parcel if at least one affordable or employee housing unit is co-located on the parcel. For purposes of this exclusion a floor area ration of

³⁶ The existing language provides no administrative appeals from Planning Commission decisions on non-residential allocations. This revised language incorporates the appeal of both ROGO and NROGO in one section.

³⁷ This revision provides incentives for provision of affordable and employee housing on lots smaller than one acre which predominate in the Keys.

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twenty-five (25) percent shall be assumed. The exclusion of floor area shall be in accordance with the following criteria:

- a. If the parcel of land is less than two (2) gross acres, the project's total nonresidential floor area or two thousand (2,000) square feet, whichever is less, shall be excluded from the calculation; or
- b. If the parcel of land is two (2) or more (2) gross acres, the project's total nonresidential floor area or four thousand (4,000) square feet, whichever is less, shall be excluded from the calculation.

AMENDMENT #3

Amend Section 9.5-266(a)(3) as follows:³⁸

- (3) Market rate housing developed in accordance with paragraph (8) below shall be eligible to receive points ~~as affordable housing under section 9.5-122.3(a)(6)~~ pursuant to section 9.5-122.4(f).

AMENDMENT #4

Amend Section 9.5-266(a)(6) c. thorough f. as follows:³⁹

- c. The use of the affordable or employee dwelling unit is restricted for a ~~the~~ period of ~~least fifty (50) years specified in section 9.5-266(f)(1).~~
- d. ~~The size of the affordable or employee housing dwelling unit is limited by a condition to be placed on the development permit which restricts the habitable space of the unit to a maximum of one thousand three hundred (1,300) square feet for a period of at least fifty (50) years ; and,~~
- e.d. Tourist housing use or vacation rental use of affordable or employee housing units is prohibited.
- f. e. The parcel of land proposed for development of affordable or employee housing ~~shall not qualify for negative points under section 9.5-122(a)(7),(8) or (9); however, properties designated IS-D, UR, URM or URM-L shall be exempt from this prohibition~~

³⁸ The revision is required due to the elimination of scoring for affordable housing and new incentives for mixing market rate housing with affordable.

³⁹ Recent amendments to the length of restrictive covenants conflicts with existing language in the code. The length of covenant should be based on financing source to be consistent with Section 9.5-266(f)(1): 30 years for a wholly privately financed project; and 50 years for a partly or wholly publicly financed project, except for County wholly or partially financed projects as set forth in Section 9.5-122(d)(6). The limits on the size of the affordable/employee housing units has been eliminated as unnecessary, particularly with the threshold on the sales price of these units.

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shall only be located within a Tier II or III designated area. If the parcel is located within a Tier II designated area, the amount of clearing of upland native vegetation shall be limited to the open space requirements pursuant to section 9.5-347 or five-thousand (5,000) square feet whichever is less.

AMENDMENT #5

Renumber Section 9.5-266(a)(6) g. through k. to f. through j respectively.

AMENDMENT #6

Amend Section 9.5-266(a)(8) a. as follows:⁴⁰

- a. The use of the market rate housing dwelling unit is restricted for a period of at least ~~fifty (50)~~ thirty (30) years to households that derive at least seventy (70) percent of their household income from gainful employment in Monroe County.

AMENDMENT #7

Delete Section 9.5-266(a)(9):⁴¹

- ~~(9) Market rate housing dwelling units are not restricted to the thirteen hundred (1,300) square feet limitation on habitable space for affordable and employee housing.~~

AMENDMENT #8

Amend Section 9.5-266(f)(1) as follows:⁴²

- (1) Before any building permit may be issued for any structure, portion or phase of a project subject to this section, a restrictive covenant(s), approved by the growth management director and county attorney, shall be filed in the Official Records to ensure compliance with the provision of this section running in favor of Monroe County and enforceable by the county and, if applicable, a participating municipality. The following requirements shall apply to these restrictive covenants:
 - a. Except as provided for under paragraph (1)d. below, the covenants for any affordable or employee housing units partly or wholly

⁴⁰ This amendment is necessary to eliminate conflict with recent changes to restrictive covenants for non-public financed projects.

⁴¹ This language is superfluous with the elimination of the 1,300 square foot limitation.

⁴² These revisions reflect the proposed policy change to require affordable or employee housing to be guaranteed in perpetuity (99 years) if financed by Monroe County or if required by the BOCC as a condition of reserving an affordable housing allocation, as proposed under Section 9.5-122(c).

financed by a public entity other than Monroe County shall be effective for a period of at least fifty (50) years.

- b. Except as provided for under paragraph (1)d., below, the covenants for any affordable or employee housing units relying wholly upon private non-public financing shall be effective for at least thirty (30) years.
- c. The covenants for any affordable or employee housing units partly or wholly financed by Monroe County shall be effective for a period of at least ninety-nine (99) years.⁴³
- d. If approved by the Board of Commissioners as a condition of the reservation of a ROGO allocation pursuant to section 9.5-122(b), the covenants for any affordable or employee housing shall be restricted to use as an affordable housing or employee dwelling unit for a period of at least ninety-nine years.⁴⁴
- e. The covenants shall not commence running until a certificate of occupancy as been issued by the building official for the dwelling unit or dwelling units to which the covenant or covenants apply.

AMENDMENT #9

Amend Section 9.5-266 (f)(3) as follows:⁴⁵

- (3) The eligibility of a potential owner-occupier or renter of an affordable, employee or market rate housing dwelling unit, developed as part of an employee or affordable housing project, shall be determined by the planning department upon submittal of an affidavit of qualification to the planning department. The form of the affidavit shall be ~~in a form~~ prescribed by the planning ~~department~~ director. This eligibility shall be determined by the planning department as follows:
 - a. At the time the potential owner either applies for affordable housing ROGO allocation, or applies to purchase a unit that utilized affordable housing ROGO allocation; or
 - b. At the time the potential renter applies to occupy a residential unit that utilized an affordable ROGO allocation.

⁴³ This provision initiates efforts to ensure that most new affordable housing will be protected in perpetuity.

⁴⁴ This provision allows the Board to protect housing unit in perpetuity on a case-by-case basis, where no County funding is involved and where the applicant seeks and obtains a reserved allocation.

⁴⁵ Minor revisions are intended to improve the wording of the text.

AMENDMENT #10

Create a new Section 9.5-266(f)(7) that reads as follows:⁴⁶

- (7) Upon written agreement between the planning director and an eligible governmental or non-governmental entity, the planning director may authorize that entity to administer the eligibility and compliance requirements for the planning department under paragraphs (3), (4), (5) and (6) above. Under such an agreement, the eligible entity is authorized to qualify a potential owner-occupier or renter of affordable, employee, or market rate housing developed as part of an employee or affordable housing project, and annually verify the employment and/or income eligibility of tenants pursuant to section 9.5-266(f)(2). The entity shall still be required to provide the planning department by January 1 of each year a written certification verifying that tenants of each affordable, employee, or market rate housing meet the applicable employment and income requirements of paragraph (2) above. The following governmental and non-governmental entities shall be eligible for this delegation of authority:
- a. The Monroe Housing Authority, not-for-profit community development organization(s) pursuant to section 9.5-266(e), and other public entities established to provide affordable housing;
 - b. Private developers or other non-governmental organization participating in a federal/state housing financial assistance or tax credit program or receiving some form of direct financial assistance from Monroe County; or
 - c. Non-governmental organizations approved by the board of county commissioners as affordable housing providers.

AMENDMENT #11

Create a new Section 9.5-266(f)(8) as follows:⁴⁷

- (8) Should an entity fail to satisfactorily fulfill the terms and conditions of the written agreement executed pursuant to paragraph (6) above, the planning director shall provide written notice to the subject entity to show cause why the agreement should not be terminated within thirty (30) days. If the entity fails to respond or is unable to demonstrate to the satisfaction of the

⁴⁶ These amendments coupled with a new paragraph (6) codify the existing Planning Department policy of delegating authority to public agencies or non-governmental not-for-profit housing providers for determining eligibility of potential tenants for affordable housing and annual verification that tenants meet Section 9.5-266 (f)(2) income and employment requirements.

⁴⁷ In the highly unlikely event that an entity is unable to fulfill the terms and conditions of its written agreement, this paragraph provides for the planning director to terminate the agreement. The planning director's decision may be appealed to the planning commission as with any with administrative decision.

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planning director that it is meeting the terms and conditions of its agreement, the agreement may be terminated by the planning director within thirty (30) days of the written notice.

PROPOSED AMENDMENTS TO THE
LDRS TO REVISE NROGO
(SECTIONS 9.5-124 THROUGH 9.5-124.8)

DRAFT
OCTOBER 25, 2004

**PROPOSED AMENDMENTS TO LDRS
TO REVISE NROGO
(SECTIONS 9.5-124 THROUGH 9.5-124.8)**

AMENDMENT #1

Amend Section 9.5-124(b) to create a definition for “buildable lot or parcel” that reads as follows:

Buildable lot or parcel means the lot or parcel must contain a minimum of two thousand (2,000) square feet of uplands, including any disturbed wetlands that can be filled pursuant to this chapter.

AMENDMENT #2

Delete the definition of “Infill Site” in Section 9.5-124(b).¹

AMENDMENT #3

Amend Section 9.5-124.2 as follows:

Sec. 9.5-124.2 Type of development affected and special requirements.

(a) The NROGO shall apply to the development of all new and expanded non-residential floor area and other uses, except as exempted by this division, as described in subsections (b) and (c) below for which a building permit or development approval is required by this chapter and for which building permits have not been issued prior to the effective date of ~~the non-residential permit allocation system~~ this ordinance.²

(b) Notwithstanding the provisions of section 9.5-4(D-8) development, the following new uses shall ~~be prohibited until appropriate areas are so designated in a community master plan;~~ only be eligible for a NROGO allocation under this chapter on sites located within a designated Commercial Center Overlay area.³

- (1) Commercial retail very high-intensity uses that generate more than one hundred fifty (150) vehicle trips per one thousand (1,000) square feet of floor area.
- (2) Storage areas as a principal use not located within a Light Industrial (LI), Industrial (I), or Maritime Industries (MI) district.

¹ The institution of the Tier system eliminates the need for any definition of infill.

² The existing language has been revised for clarification purposes.

³ Existing language is modified for clarification purposes; to reflect the incorporation of Commercial Center Overlay areas; and to provide opportunities for applying certain differing standards for each island community with a Specific Island Overlay. For example, the Big Pine Key and No Name Key master plan prohibits certain uses and intensity of uses, which would be allowed elsewhere in the County.

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- (3) Outdoor retail sales areas on a vacant lot and any new or expanded outdoor retail sales associated with a lawfully established structures, existing on the effective date of this division, of less than five hundred (500) square feet of floor area, not located within a Light Industrial (LI), Industrial (I), or Maritime Industries (MI) district.

- (4) Commercial outdoor recreation uses.

(c) New or expanded outdoor retail sales associated with a lawfully established structure, existing on the effective date of this ~~article~~ division, of at least five hundred (500) square feet of floor area may be permitted with a minimum of a minor conditional use approval if located within a designated Tier III area.

(d) Enclosing of any canopies or drive-throughs in existence on or before September 19, 2001, ~~the date of the adoption of NROGO Ordinance No. 032-2001,~~ shall require a NROGO allocation.⁴

(e) The special standards established elsewhere in this chapter for a designated Commercial Center Overlay area or a specific Key(s) Overlay Zone, may supercede, modify, or supplement the standards established for NROGO in this division.⁵

(f) Non-public institutional uses on Big Pine Key and No Name Key are subject to the provisions of NROGO pursuant to the following special conditions and standards.⁶

- (1) A non-public institutional floor area and use, existing on the effective date of the issuance of the Incidental Take Permit for the Florida Key Deer and other covered species, may be expanded by two-thousand five hundred (2,500) square feet of floor area per NROGO year. These allocations are to be made on a "first come, first served" basis.

- (2) New non-public institutional uses on Big Pine Key and No Name Key are subject to the provisions of NROGO .

(g) All new or expanded non-residential development on Big Pine Key and No Name Key is subject to the provisions of the Incidental Take Permit and the Habitat Conservation Plan for the Florida Key Deer and other covered species, which may affect NROGO allocations under this chapter. All new and expanded non-residential

⁴ The specific ordinance that establishes the date does not have to be identified in the text.

⁵ This provision allows each Commercial Center Overlay area to incorporate special standards as needed to fit the differing needs of each Keys community.

⁶ These provisions reflect the adopted community master plan for Big Pine Key and No Name Key and the HCP.

development shall be limited to scarified or disturbed lands and clearing of any pinelands and/or hammock is prohibited.⁷

AMENDMENT #4

Amend Section 9.5-124.3 (a)(4) as follows:⁸

- (4) *Development activity for certain not-for-profit organizations:* Except for the non-public institutional uses on Big Pine Key and No Name Key pursuant to section 9.5-124.2, Non-residential development activity within Tier II and III designated areas by federally tax exempt not-for-profit educational, scientific, religious, social, cultural and recreational organizations, which predominately serve the county's permanent population, if approved by the planning commission after review and recommendation by the planning director. This exemption is subject to the condition that a restrictive covenant be placed on the property prior to the issuance of a building permit. The restrictive covenant shall run in favor of Monroe County for a period of at least twenty (20) years. Any change in the use or ownership of the property subject to this restrictive covenant shall require prior approval by the planning commission, unless the total floor area exempted by the planning commission is obtained through an off-site transfer of floor area and/or non-residential floor area allocation pursuant to this chapter. If the total amount of floor area that is transferred and/or allocated meets or exceeds the total amount of floor area exempted, the restrictive covenant shall be vacated by the County. This not-for-profit exemption is not applicable to non-residential development proposed within those areas proposed for acquisition by governmental agencies for the purpose of resource protection a Tier I designated area.⁹

AMENDMENT #5

Amend Section 9.5-124 .3 (a)(10) b. as follows:¹⁰

- i. Has existing lawfully established non-residential floor area or is an infill site located within a Tier III designated area, and if on Big Pine Key, is located within the designated Community Center Overlay area; and,

⁷ This language is necessary to provide basis for making unforeseen adjustments in the NROGO allocations for Big Pine Key and No Name Key that may be necessitated by the restrictions contained in the "H" budget of the HCP and Incidental Take Permit.

⁸ This proposed language will help ensure that the floor area granted under the exemption provisions of these regulations will be restricted to entities and uses that meet the criteria for such an exemption even upon transfer of ownership.

⁹ This language reflects incorporation of Tier system.

¹⁰ The institution of the Tier system requires these revisions to existing criteria as the Tier system eliminates the need for addressing negative points for habitat and off-shore islands.

- ii. Is located within the same ROGO subarea as the sender site, except that for a receiver site on Big Pine Key, the sender site shall also be located on Big Pine or No Name Keys; and,
- iii. Is not a commercial very high intensity retail use which will generate more than one hundred fifty (150) vehicle trips per one thousand (1,000) square feet of floor area; and,
- ~~iv. Is not located on Big Pine Key, No Name Key or within a CARL acquisition area~~
- ~~v. Receives no negative environmental points when evaluated pursuant to subsections 9.5-124.8(a)(4)-(6); and~~
- ~~vi.iv. Is not located within a "V" special flood hazard zone pursuant to subsection 9.5-124.8(a)(8); and.~~
- ~~vii. Is not located in a coastal barrier resources system pursuant to subsection 9.5-124.8(a)(9); and~~
- ~~viii. Is not located in an offshore island/conservation land protection area pursuant to subsection 9.5-124.8(a)(10).~~

AMENDMENT #6

Amend Section 124.4(a) and (b) as follows:¹¹

(a) *Maximum amount of available floor area for the annual non-residential ROGO allocations:* The maximum amount of floor area available for allocation under NROGO shall be determined by multiplying the number of residential permits available for the annual residential allocation period year by two hundred thirty-nine (239) square feet and rounding the product to the nearest one hundred (100) square feet. The maximum amount of available floor for annual allocations shall be computed separately for Big Pine Key and No Name Key and for the remainder of unincorporated Monroe County. This maximum total may be adjusted as provided for in subsection 9.5-124.6(a). Except for Big Pine Key and No Name Key, For the first annual allocation period, the maximum amount of floor area that may be made available for allocation is to be based upon the number of permits issued under ROGO, starting with the Third Quarter, ROGO Year 1 (starting April 14, 1993) through ROGO Year 9 (ending July 13, 2001) and number of ROGO allocations to be made in ROGO Year 10, reduced by the amount of non-residential floor area approved in permits, issued after the adoption of the comprehensive plan on April 15, 1993. Any remaining part of the maximum annual allocation not made available for allocation in an annual allocation period by the board of

¹¹ This amendment and the following two amendments are required to implement the Habitat Conservation Plan and Community Master Plan for Big Pine Key and No Name Key.

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county commissioners in subsection 9.5-124.4(g) shall be carried over to the next annual allocation period.

(b) *Maximum allocation of non-residential floor area by site:* The amount of non-residential floor area to be allocated shall be limited to a maximum of two thousand five hundred (2,500) square feet for any one site, except for sites ~~designated for non-residential development in a community master plan located within a designated Community Center Overlay area.~~ For sites located within a ~~community master plan Community Center Overlay area,~~ the maximum allocation shall only be limited by the maximum floor area per structure in subsection (c) below.

AMENDMENT #7

Amend Section 9.5-124.4 by creating new Section 124.4 (i) and (j) that read as follows:

(i) *First Allocations for Big Pine Key and No Name Key:* For the first allocation period, the maximum amount of floor area available for allocation shall be based on the number of permits issued under the 200 allocations authorized by the Big Pine Key and No Name Key Community Master Plan and the number of ROGO allocations to be made available in the ROGO Year 13 beginning July 17, 2004.

(j) *Separate Allocations for Big Pine Key and No Name Key:* Allocations for Big Pine Key and No Name Key shall be administered and awarded separately from those for the remainder of unincorporated Monroe County.

AMENDMENT #8

Amend Section 9.5-124.6 (b)(1) as follows:

- (1) Within thirty (30) days of an allocation date, unless otherwise extended by the planning commission, the planning director shall:
 - a. Complete the evaluation of all allocation applications submitted during the relevant allocation period; and
 - b. Total the amount of square footage for which allocation applications have been received for Big Pine Key and No Name Key and for the remainder of unincorporated Monroe County; and
 - c. Rank the floor area allocation applications, in descending order from the highest evaluation point total to the lowest for each size classification for Big Pine and No Name Key and the remainder of unincorporated Monroe County.

AMENDMENT #9

Amend Section 9.5-124.7(a) and (b) as follows:¹²

(a) *Eligibility:* An applicant is eligible for administrative relief under the provisions of this section if all the following criteria are met:

- (1) The applicant has complied with all requirements of the non-residential permit system allocation system.
- (2) The subject application has not been withdrawn; and,
- (3) The subject application has been considered in ~~at least three (3) of the first~~ four consecutive allocation periods and has failed to receive an allocation award.

(b) *Application:* An application for administrative relief shall be made on a form prescribed by the director of planning and may be filed with the planning department no earlier than the conclusion of the ~~third~~ fourth allocation period and no later than one hundred twenty (120) days following the close of the fourth annual allocation period.

AMENDMENT #10

Amend Section 9.5-124.8 to read as follows:

(a) *Evaluation point values:* The following point values established are to be applied cumulatively except where otherwise specified:

- (1) *Tier designation:* The following points are intended to discourage non-residential development in environmentally sensitive areas and areas within sufficient infrastructure and to direct and encourage non-residential development in appropriate infill areas, while recognizing that any development has affects on the carrying capacity of the Florida Keys:¹³

<i>Point assignment:</i>	<i>Criteria:</i>
0	An application which proposes non-residential development within an area designated Tier I [Natural Area].

¹² This language eliminates administrative problems with applications filed prior to completion of fourth allocation period, removes ambiguity in eligibility language and makes it similar to the language for ROGO, and extends period for filing application.

¹³ The points for infill have been revised to incorporate the Tier system. As proposed, this system strongly rewards projects within Tier III with somewhat less favorable scoring for projects in Tier II.

+10	An application which proposes non-residential development within an area designated Tier II [Transition and Sprawl Reduction Area].
+20	An application which proposes non-residential development within an area designated Tier III [Infill Area].

- (2) *Intensity reduction:* The following points are intended to encourage the voluntary reduction of intensity:¹⁴

<i>Point assignment:</i>	<i>Criteria:</i>
+ 4	An application proposes development that reduces the permitted floor area ratio (FAR) to twenty three percent (23%) or less.
	<i>Additional requirement:</i>
	A legally binding restrictive covenant running in favor of Monroe County that restricts the floor area ratio of the property to a maximum of twenty three percent (23%) for a period of ten (10) years shall be approved by the growth management director and county attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award.

- (3) *Land dedication:* The following points are intended to encourage the voluntary dedication of vacant, buildable land within those areas proposed for acquisition by governmental agencies for the purposes of conservation, resources protection, restoration or density reduction, and if located within Tier II or Tier III, for the purpose of providing land for affordable housing where appropriate.¹⁵

¹⁴ No change has been made, except the wording for the restrictive covenant requirements.

¹⁵ The points proposed for land dedication are same as proposed under ROGO.

<i>Point assignment:</i>	<i>Criteria:</i>
+4	An application which includes the dedication to Monroe County of one (1) vacant, legally platted, buildable lot, zoned IS, IS-D, IS-M, URM, URM-L, or CFV. Each additional vacant, legally platted, buildable lot which is dedicated that meets the above requirements will earn the application the additional points as specified.
+1 per 5,000 square feet of lot area	An application which includes the dedication to Monroe County of a vacant, legally platted, buildable lot of five thousand (5,000) square feet or more within a Suburban Residential District (SR) or Suburban Residential – Limited District (SR-L) in a designated Tier I area. Each additional vacant, legally platted, buildable lot of five thousand (5,000) square feet or more that meets the above requirements will earn points as specified.
+0.5	An application which includes the dedication to Monroe County of one (1) vacant, legally platted lot of five thousand (5,000) square feet or more within a Native Area District (NA) or Sparsely Settled District (SS) within a designated Tier I area. Each additional vacant, legally platted, buildable lot that meets the above requirements will earn the half (0.5) point as specified.
+4	An application which includes dedication to Monroe County of at least one (1) acre of vacant, unplatted, buildable land located within a designated Tier I area. Each additional one (1) acre of vacant, unplatted, buildable land that meets the above requirements will earn the points as specified.
	<i>Additional requirements</i>
	The application shall include but not be limited to the following: * An affidavit of ownership of all affected lots, parcels, acreage or

	land; and * A statutory warranty deed, that conveys the dedicated property to the county shall be approved by the growth management director and county attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award.
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(4) *Special flood hazard area:* The following points are intended to discourage development within high risk special flood hazard zones:¹⁶

<i>Point assignment:</i>	<i>Criteria:</i>
- 4	An application which proposed development within a "V" zone on the FEMA Flood Insurance Rate Map.

(5) *Perseverance points:* The following points are intended to reward an application based upon the number of years spent in the non-residential ROGO system without receiving an allocation award.

<i>Point assignment:</i>	<i>Criteria:</i>
+1	A point shall be awarded on the anniversary of the controlling date for each year that the application remains in the NROGO system up to four years.
+2	Points shall be awarded on the anniversary of the controlling date for each year over four (4) that the application remains in the NROGO system.

(6) *Highway access:* The following points are intended to encourage connections between commercial uses and reduction of the need for trips and access onto U.S. Highway 1:¹⁷

¹⁶ Negative points for special flood hazards have been revised similar to those for ROGO.

¹⁷ The existing points have been revised as existing point system has not accomplished the purpose of reducing access to U.S. Highway 1 which creates traffic congestion and safety problems.

<i>Point assignment:</i>	<i>Criteria:</i>
+3	The project eliminates an existing driveway or access-way to U.S. Highway 1.
+2	The projects does not provide for a new driveway or access-way to U.S. Highway 1.

(7) *Landscaping and water conservation:* The following points are intended to encourage the planting of native vegetation and promote water conservation:

<i>Point assignment:</i>	<i>Criteria:</i>
+3	The project provides a total of two hundred (200) percent of the number of native landscape plants on its property than the number of native landscape plants required by this chapter within landscaped bufferyards and parking areas.
+1	Twenty-five percent (25%) of the native plants provided to achieve the three (3) point award above or provided to meet the landscaped bufferyard and parking area requirements of this chapter are listed as threatened or endangered plants native to the Florida Keys.
+2	Project landscaping is designed for water conservation such as use of one hundred percent (100%) native plants for vegetation, collection and direction of rainfall to landscaped areas, or application of re-used wastewater or treated seawater for watering landscaped plants.
	<i>Additional requirements:</i>
	Prior to the issuance of a certificate of occupancy for the building permit authorized by an allocation award, the applicant shall: ¹⁸ * Post a two-year performance bond in

¹⁸ This revision reflects the need to post the performance bond after construction and prior to occupancy rather than at the time of the issuance of the building permit. This change reflects the fact that landscaping is generally one of the last improvements made and it makes little sense to post a bond when it may be three to six months before landscaping is even started.

	<p>accordance with this chapter to ensure maintenance of the native plants; and,</p> <p>* Shall sign an affidavit acknowledging that he is subject to code enforcement action should the native plants not be maintained.</p>
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(8) *Central wastewater treatment system availability:* The following points shall be assigned to encourage development in areas served by central wastewater treatment systems:¹⁹

<i>Point Assignment:</i>	<i>Criteria:</i>
+ 4	An application which development required to be connected to a central wastewater treatment system that meets BAT/AWT standards established by the Florida Legislature.

(9) *Employee housing:* The following points, up to a maximum of four (4) shall be assigned to allocation applications that make provisions for employee housing units:²⁰

<i>Point Assignment:</i>	<i>Criteria:</i>
+ 2 per unit	Proposes an employee housing unit(s) which is located on the parcel with the nonresidential floor space requested in the allocation application.
	<i>Additional Requirements:</i>
	<ol style="list-style-type: none"> 1. The employee housing unit shall be required to meet the applicable provisions of section 9.5-266. 2. The proposed employee housing unit(s) shall be included in the development approval for the nonresidential development proposed in the allocation application.

¹⁹ This language is intended to encourage infill development in areas served by central sewer systems being upgraded or constructed to meet 2010 Wastewater Treatment Standards mandate; maximize public investment; reduce the average EDU operating/maintenance costs of these systems; and, help recoup capital costs.

²⁰ This new provision provides further incentives for provision of employee housing in coordination with new nonresidential development.

	3. A certificate of occupancy shall be granted for the nonresidential development authorized by the allocation award shall not be issued prior to the certificate of occupancy for the employee housing units.
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(10) *Payment to land acquisition fund:* Up to three (3) points shall be awarded for a monetary payment to the County's Land Acquisition Fund for the purchase by the County of lands for conservation and affordable housing and retirement of development rights. Points for payment to this fund shall be assigned as follows:²¹

<i>Point Assignment:</i>	<i>Criteria:</i>
+ 1 to +3	Proposes payment to the County's Land Acquisition Fund in an amount equal to the monetary value of a ROGO dedication point times the number of points to be purchased up to a maximum of three (3) points.
	<i>Additional Requirements:</i>
	<ol style="list-style-type: none"> 1. The monetary value of each point shall be established annually by resolution of the board of county commissioners. 2. The monetary value of each point shall be based upon the average ad valorem value of privately-owned, vacant IS/URM platted lots divided by four (4). 3. The payment to the County's Land Acquisition Fund shall be made prior to the issuance of any building permit pursuant to an allocation award.

²¹ This new provision allows payment to a County Land Acquisition Fund in lieu of lot dedication; however, the number of points that can be purchased are limited to only three.

PROPOSED AMENDMENTS TO THE
LDRS TO REVISE ROGO
(SECTIONS 9.5-120 THROUGH 9.5-123 AND
SECTIONS 9.5-125 THROUGH 9.5-140) AND
AFFORDABLE HOUSING (SECTION 9.5-266)

[HYBRID ROGO SYSTEM]

DRAFT
OCTOBER 25, 2004

**PROPOSED AMENDMENTS TO LDRS TO REVISE
ROGO (SECTIONS 9.5-120 THROUGH 9.5-123 AND
SECTIONS 9.5-125 THROUGH 9.5-140)
AND AFFORDABLE HOUSING (SECTION 9.5-266)
[HYBRID ROGO SYSTEM]**

AMENDMENT #1

Amend Sections 9.5-120 through 9.5-123 and Sections 9.5-125 through 9.5-140 to read as follows:

DIVISION 1.5 RATE OF GROWTH ORDINANCE

Sec. 9.5-120. Residential rate of growth ordinance (ROGO).

- (a) *Purpose and intent:* The purposes and intent of residential ROGO are:
- (1) To facilitate implementation of goals, objectives and policies set forth in the comprehensive plan relating to protection of residents, visitors and property in the county from natural disasters, specifically including hurricanes;
 - (2) To limit the annual amount and rate of residential development commensurate with the county's ability to maintain a reasonable and safe hurricane evacuation clearance time;
 - (3) To regulate the rate and location of growth in order to further deter deterioration of public facility service levels, environmental degradation and potential land use conflicts;
 - (4) To allocate the limited number of dwelling units available annually hereunder, based upon the goals, objectives and policies set forth in the comprehensive plan; and,
 - (5) ¹To implement Goal 105 of the comprehensive plan.

(b) *Definitions:* The words or phrases used in this division shall have the meanings prescribed in this chapter, except as otherwise indicated as follows: ²

Allocation period means a defined period of time within which applications for the residential ROGO allocation will be accepted and processed.

¹ Added to include Goal 105 to the purpose and intent.

² The definitions for threatened and endangered species have been removed, the previous criteria are no longer needed since they are included in the Tier map designations.

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Annual allocation period means the twelve-month period beginning on July 13, 1992, (the effective date of the original dwelling unit allocation ordinance), and subsequent one-year periods.

Annual residential ROGO allocation means the maximum number of dwelling units for which building permits may be issued during an annual allocation period.

Buildable lot or parcel means the lot or parcel must contain a minimum of two-thousand (2,000) square feet of upland, including any disturbed wetlands that can be filled pursuant to this chapter.

Competitive system means the process for approving a market rate residential ROGO application for the issuance of a building permit using a competitive ranking of applications based on the evaluation criteria pursuant to section 9.5-122.4.³

Controlling date means the date and time a ROGO application is submitted. This date shall be used to determine the annual anniversary date for receipt of a perseverance point(s) and shall determine precedence when ROGO applications receive identical ranking scores. A new controlling date shall be established based upon the re-submittal date and time of any withdrawn or revised application, except pursuant to section 9.5-122.1 (h).

Lottery system means the process for approving a market rate residential ROGO application for the issuance of a building permit using a random selection process that gives every application, deemed eligible pursuant to section 9.5-122.5, an equal chance of approval.⁴

Quarterly allocation period means the three-month period beginning on July 13, 1992, or such other date as the board may specify, and successive three-month periods.

Quarterly residential ROGO allocation means the maximum number of dwelling units for which building permits may be issued in a quarterly allocation period.

Residential dwelling unit means a dwelling unit as defined in section 9.5-4 of the Monroe County Code, and expressly includes the following other terms also specifically defined in section 9.5-4: hotel rooms, campground spaces, mobile homes, transient residential units, institutional residential units (except hospital rooms) and live-aboards.

Residential ROGO allocation means the maximum number of dwelling units for which building permits may be issued in a given time period.

Residential ROGO allocation award means the approval of a residential ROGO application for the issuance of a building permit.

³ This revision provides a definition for competitive process for market rate housing allocations.

⁴ This revision provides a definition for lottery process for market rate housing allocations.

ROGO application means the residential ROGO application submitted by applicants seeking allocation awards.

Sec. 9.5-120.1. General provisions.

(a) *Residential ROGO allocation award required:* No building permit shall be issued unless the dwelling unit has received a residential dwelling unit allocation award, or is determined to be exempt as provided below.

(b) *Effective date:* Any ROGO application which has not received an allocation award as of the effective date of this division shall be processed and evaluated pursuant to the provisions of this division.

(c) *Yearly review and monitoring:* As required by the comprehensive plan, as requested by the planning commission or the board, or as otherwise necessary, the planning director shall consider the rate, amount, location, and ratio of market rate to affordable housing residential dwelling units available for development in the county. The planning director shall also monitor the effects of such development and determine the conformity of such development with the comprehensive plan and this chapter. This review, in whole or in part, may form the basis for recommendations by the planning director or the planning commission to the board for action to repeal, amend or modify the ROGO allocation system.

(d) *Affected area:* The ROGO allocation system shall apply within the unincorporated area of Monroe County, Florida, which, for purposes hereof, has been divided into subareas as follows:

- (1) Upper Keys: The unincorporated area of Monroe County north of Tavernier Creek and corporate limits of the Village of Islamorada (approximately mile marker 90).
- (2) Lower Keys: The unincorporated area of Monroe County from the corporate limits of the Village of Islamorada (approximately mile marker 72) south to the corporate limits of the City of Key West at Cow Key Bridge on U.S. Highway 1 (approximately mile marker 4), excluding Big Pine Key and No Name Key.⁵
- (3) Big Pine Key and No Name Key: The islands of Big Pine Key and No Name Key within unincorporated Monroe County.

Sec. 9.5-120.2. Type of development affected

The residential ROGO shall apply to all residential dwelling units for which a building permit is required by this chapter and for which building permits have not been

⁵ The Middle and Lower Keys are combined because of the small area of unincorporated Monroe County remaining in the middle Keys boundary.

issued prior to the effective date of the ROGO allocation system, except as otherwise provided herein.

Sec. 9.5-120.3. Type of development not affected.

The residential ROGO shall not apply to the development described below:

(a) *Redevelopment on-site*: Redevelopment, rehabilitation or replacement of any lawfully established residential dwelling unit or space which does not increase the number of residential dwelling units above that which existed on the site prior to the redevelopment, rehabilitation or replacement.

(b) *Transfer off-site*: Transfer off-site shall consist of either the demolition or a change of use from residential to non-residential of a unit or space from a sender site and the development of a new unit on a receiver site as indicated below.

(1) *Eligibility of sender unit or space*: A hotel room, mobile home, dwelling unit, or recreational vehicle/campground space that is lawfully established.

(2) *Criteria for redevelopment off-site*: In order to redevelop off-site, a receiver site must be evaluated for both its structural and site conditions.

a. *Transfer to a hotel*: A hotel or hotel room may be developed if the:

(i) Sender unit is eligible and provided that it was used as a hotel room in accordance with section 9.5-4; and⁶

(ii) Receiver site meets all of the following criteria:⁷

(1) Is located in the same ROGO subarea as the sender site; and

(2) ⁸Is located within a Tier III designated area.

b. *Transfer to affordable housing*: An affordable housing unit may be developed if the receiver unit meets all of the following criteria:

(i) The proposed unit is an affordable house pursuant to sections 9.5-4(A-5) and 9.5-266; and

⁶ The provision to allow transfer of recreational vehicle spaces has been deleted; County currently has a moratorium on such transfers.

⁷ The requirement that affordable housing must be attached has been removed to allow transfers to single-family lots.

⁸ Transfer will only be allowed in Tier III areas in conformance with Goal 105 and the FKCCS.
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- (ii) Is located in the same ROGO subarea as the sender site; and
- (iii) Is located in a Tier III designated area or, if located in a Tier II designated area clearing of upland native vegetation is limited to less than five thousand (5,000) square feet or the open space requirements of section 9.5-347, whichever is less.⁹

(3) *Procedures for transfer off-site:*

- a. ¹⁰A pre-application conference and at a minimum, a minor conditional use permit, shall be required for both the sender site and the receiver site. The minor conditional use for the transfer shall be reviewed pursuant to criteria in section 9.5-120.3 and not criteria in section 9.5-65. The sender site shall not require posting.
- b. A sender unit shall be assigned a unique identifier number that shall be used for tracking and monitoring by the planning department. Multiple units to be transferred from a sender site may be authorized under a single conditional use approval.
- c. The unique identifier number shall be itemized in the conditional use permits required for both the sender and receiver sites.

(4) *Conditions for Issuance of Permit:* No building permit shall be issued for the new unit on the receiver site until one of the following conditions is met:

- a. The unit is demolished as per an issued demolition permit and a final inspection for the demolished unit or space has been completed by the building department for the sender site; or
- b. The unit is removed pursuant to a development approval, development order, or a development permit is issued and a final inspection for the removed unit is completed by the building department for the sender site.

(c) *Nonresidential use:* Nonresidential uses are not affected by residential ROGO.

(d) *Development not increasing hurricane evacuation times:* Any applicant that can demonstrate with a traffic study acceptable to Monroe County traffic engineers that their proposed development will not increase hurricane evacuation times. All

⁹ This change provides for affordable housing transfers to Tier II areas under limited clearing conditions; Tier II areas contain many of the remaining "affordable" lots as most are not waterfront.

¹⁰ The minor conditional use process is required for accounting purposes only.

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residential dwelling units to be located in the area designated as Zone 7 (North Key Largo area) are deemed not to increase hurricane evacuation times.

(e) *Public/governmental uses*: Public/governmental uses, including capital improvements and public buildings, as are defined in section 9.5-4.

(f) *Other nonresidential development*: Any other use, development, project, structure, building, fence, sign or activity, which does not result in a new residential dwelling unit.

(g) *Vested rights*: Landowners with a valid, unexpired development of regional impact approval granted by the county prior to July 13, 1992, shall be exempt from the residential ROGO system.

Sec. 9.5-120.4. Moratorium on new transient units.

New transient residential units, such as hotel or motel rooms, or campground, recreational vehicle or travel trailer spaces, shall not be eligible for residential ROGO allocations until December 31, 2006.

Sec. 9.5-121. Reserved.

Sec. 9.5-122. Residential ROGO allocations.

¹¹(a) *Number of Available Annual Residential ROGO Allocations*: The number of residential ROGO allocations available in each subarea of unincorporated Monroe County and the total number of affordable residential ROGO allocations available county-wide on a yearly basis shall be as follows:

<u>Subarea</u> ¹²	<u>Number of Dwelling Units</u>
Upper Keys	61
Lower Keys	57
Big Pine and No Name Keys	<u>8</u>
Total Market Rate	126
Affordable dwelling units	
Very Low, Low, and Median Incomes	36*
Moderate Income	<u>35*</u>
	71

¹¹ The allocation formula is revised from the 1992 analysis excluding the IS and URM vacant lots on Big Pine Key and No Name Keys, which contain 1586 lots, 20% of the total vacant lots and 34% of the lots in the Lower Keys. The allocation for BPK and NNK is based on the HCP. The totals for market rate and affordable housing reflect the draft Rule proposed by the Florida Administration Commission.

¹² The Lower and Middle Keys ROGO planning areas have been combined due to incorporation of Islamorada and Marathon.

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¹³Total units a year

197

*Includes one (1) for Big Pine Key and No Name Key.

- (1) *Yearly market rate residential ROGO allocation ratio:* Each subarea shall have its number of market rate residential ROGO allocations available per ROGO year. A minimum of twenty (20) percent of the total annual market rate residential ROGO allocations for the Upper Keys and Lower Keys shall be made available for award through the lottery system and the remainder through the competitive system. The annual eight (8) market rate residential ROGO allocations for Big Pine Key and No Name Key shall only be available through the competitive system.¹⁴
- (2) *Yearly residential ROGO allocation ratio for affordable housing:* Affordable housing shall be available for county-wide allocation, except for Big Pine Key and No Name Key. The annual affordable housing allocations for Big Pine Key and No Name Key shall be eight (8) market rate and two (2) affordable dwelling units.
- (3) *Quarterly residential ROGO allocation ratio:* Each subarea shall have its number of market rate housing residential ROGO allocations available per ROGO quarter determined by the following formula:
 - a. Market rate residential ROGO allocations available in each subarea per quarter is equal to the market rate residential ROGO allocations available in each subarea divided by four (4).
 - b. Affordable housing residential ROGO for all four (4) ROGO quarters including the two available for Big Pine Key shall be made available at the beginning of the first quarter for a ROGO year.
- (4) *Ratio of affordable housing ROGO allocations to market rate ROGO allocations:* Prior to October of each year, the board of county commissioners may adopt a resolution changing the ratio of affordable housing to market rate ROGO allocations based upon the recommendations of the planning director and planning commission arising from the annual review of ROGO. This ratio may be amended pursuant to the following:
 - a. The percentage of affordable housing shall never be less than twenty (20) percent of the total ROGO allocations available or the

¹³ The number of allocations is based on the current allocation of 197 for the County excluding the 20 percent reduction enacted by the Florida Administration Commission.

¹⁴ This revision proposes to make market rate allocations available through the standard competitive process and a lottery process.

minimum established by rule of the Florida Administration Commission, whichever is greater.

- b. The increase or decrease in the percentage of affordable housing of the total ROGO allocations available shall not exceed fifty (50) percent of the previous year's ROGO allocations to market rate and affordable housing.

- (5) *Ratio of very low income, low income, and median income allocations to moderate income allocations:* The Planning Commission may amend these proportions for affordable housing during any ROGO quarter.

- (6) *Ratio of market rate housing ROGO allocations through the lottery system to market rate ROGO allocations:* Prior to October of each year, the board of county commissioners may adopt a resolution changing the ratio of market rate ROGO allocations available through the lottery system to total market rate allocations in the Upper Keys and Lower Keys based upon the recommendations of the planning director and planning commission arising from the annual review of ROGO. This ratio may be amended pursuant to the following.¹⁵

- a. The percentage of market rate residential ROGO allocations available through the lottery system shall never be less than twenty (20) percent of the total market rate residential ROGO allocations available for the Upper Keys and Lower Keys.
- b. The increase or decrease in the percentage of market rate allocations available through the lottery system of the total market rate residential ROGO allocations for the Upper Keys and Lower Keys shall not exceed fifty (50) percent of the previous year's market rate residential ROGO allocations available through the lottery system.

- (7) *Big Pine Key and No Name Key:* All residential development on Big Pine Key and No Name Key is subject to the provisions of the Incidental Take Permit and the Habitat Conservation Plan for the Florida Key Deer and other covered species, which may affect ROGO allocations under this chapter.¹⁶

- (b) *Reservation of affordable housing allocations:* Notwithstanding the provisions of section 9.5-122.2 for awarding of allocations for affordable housing, the

¹⁵ This language provides ability for ratio of market rate allocations available through the lottery process to be changed as needed.

¹⁶ This language is necessary to provide the basis for making unforeseen adjustments in the ROGO allocations on Big Pine Key and No Name Key that may be necessitated by the restrictions contained in the "H" budget of the HCP and Incidental Take Permit.

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board of county commissioners may reserve by resolution some or all of the available affordable housing allocations for award to certain sponsoring agencies or specific housing programs consistent with all other requirements of this chapter. Building permits for these reserved allocations shall be picked up within six (6) months of the effective reservation date, unless otherwise authorized by the board of county commissioners in its resolution. The board of county commissioners may at its discretion place conditions on any reservation as it deems appropriate. These reservations may be authorized by the board of county commissioners for:¹⁷

- (1) The Monroe County Housing Authority, nonprofit community development organization(s) pursuant to section 9.5-266(e), and other public entities established to provide affordable housing by entering into a memorandum of understanding with one or more of these agencies;
- (2) Specific affordable or employee housing projects participating in a federal/state housing financial assistance or tax credit programs or receiving some form of direct financial assistance from the county upon written request from project sponsor and approved by resolution of the board of county commissioners;
- (3) Specific affordable or employee housing projects sponsored by non-governmental not-for profit organizations above upon written request from the project sponsor and approved by resolution of the board of county commissioners;
- (4) Specific affordable or employee housing programs sponsored by the county pursuant to procedures and guidelines established time to time by the board of county commissioners;
- (5) Specific affordable or employee housing projects by any entity, organization, or person, contingent upon transfer of ownership of the underlying land for the affordable housing project to the county, a not-for-profit community development organization(s), or other entity approved by the board of county commissioners, upon written request from the project sponsor and approved by resolution of the board of county commissioners; or
- (6) Rental employee housing projects, situated on the same parcel of land as the non-residential workplace for the tenants of these projects, upon

¹⁷ This provision codifies the practice of the County to provide allocations for specific projects and gives the Board more flexibility in applying these allocations to where they are most needed. It eliminates the need for these projects to go through the ROGO competition process and provides some certainty to housing provider agencies for planning and funding of their housing projects. Furthermore, this proposed language provides additional incentives for owners of non-residential properties to provide affordable rental housing and employers to provide on-site housing for employees.

written request from the property owner and approved by resolution of the board of county commissioners.

(d) *Affordable housing allocation awards and eligibility:*

- (1) The definition of affordable housing shall be as specified in sections 9.5-4 and 9.5-266.
- (2) Any portion of the annual affordable housing allocation not used for affordable housing at the end of a ROGO year shall be made available for affordable housing for the next ROGO year.
- (3) Any portion of the residential ROGO allocations not used shall be retained and be made available for affordable housing from ROGO year to ROGO year.
- (4) ¹⁸No affordable housing allocation shall be awarded to applicants located within a Tier I designated area, within a V-zone on the county's flood insurance rating map, and, or within a Tier II designated area resulting in the proposed clearing of upland native vegetation of more than five-thousand (5,000) square feet or the open space requirements of Section 9.5-347, whichever is less.
- (5) ¹⁹Only affordable housing allocations for Big Pine Key may be used on Big Pine Key. No affordable housing allocation may be used on No Name Key.

(e) *Residential dwelling unit allocation required:* From and after the effective date of the dwelling unit allocation system, the county shall issue no building permit for a residential dwelling unit unless such dwelling unit:

- (1) Has a residential dwelling unit allocation award; or
- (2) Is exempted from the dwelling unit allocation system pursuant to this chapter or is deemed vested pursuant to section 9.5-120.3.

Section 9.5-122.1 Application procedures for residential ROGO.

(a) *Application for allocation:* In each quarterly allocation period, the department of planning and environmental resources shall accept applications to enter the

¹⁸ As all future development is discouraged within Tier I, it would be inappropriate to provide the benefits in the affordable housing program to an area where development should not occur. Furthermore, in Tier II clearing of existing tropical hardwood hammock or pinelands should be limited to protect isolated, but locally important environmental habitats.

¹⁹ The HCP for BPK and NNK only allows for a total of 10 permits to be issued under a ROGO allocation per year.

residential ROGO system on forms prescribed by the planning director. For market rate residential ROGO allocations, the application shall state whether the application is to be processed through either the competitive system or lottery system.²⁰ Except for allocations to be reserved and awarded under section 9.5-122 (b), the ROGO application form must be accompanied by an approved building permit application and a nonrefundable processing fee in order to be considered in the current allocation period.

(b) *Review for completeness and eligibility:* The planning director shall review the ROGO application for completeness and, for applications submitted through the lottery system, the planning director shall determine eligibility. If determined to be incomplete or ineligible, the planning director shall reject the ROGO application and notify the applicant of such rejection, and the reasons therefore, within ten (10) working days. The application shall be assigned a controlling date that reflects the time and date of its submittal unless the application is determined to be incomplete. If the application is rejected then the new controlling date shall be assigned when a complete application is submitted.

(b) *Fee for review of application:* Each ROGO application shall be accompanied by a nonrefundable processing fee as may be established by resolution of the board. Additional fees are not required for successive review of the same ROGO application unless the application is withdrawn and resubmitted.

(c) *Compliance with other requirements:* The ROGO application shall indicate whether the applicant for a residential dwelling unit allocation has satisfied and complied or not with all county, state and federal requirements otherwise imposed by Monroe County regarding conditions precedent to issuance of a building permit and shall require that the applicant certify to such compliance.

(d) *Non-county time periods:* The county shall develop necessary administrative procedures and, if necessary, enter into agreements with other jurisdictional entities which impose requirements as a condition precedent to development in the county, to ensure that such non-county approvals, certifications and/or permits are not lost due to the increased time requirements necessary for the county to process and evaluate residential dwelling unit applications and issue allocation awards. The county may permit evidence of compliance with the requirements of other jurisdictional entities to be demonstrated by "coordinating letters" in lieu of approvals or permits.

(e) *Limitation on number of applications:*

- (1) An individual entity or organization may submit only one (1) ROGO application per unit in each quarterly allocation period.

²⁰ Applicants seeking a market rate allocation will need to specify whether their application is to be processed through the competitive or lottery process.

(2) There shall be no limit on the number of separate parcels for which ROGO applications may be submitted by an individual, entity or organization, except, that an individual entity or organization may only submit through the lottery system one (1) ROGO application for one (1) unit on one (1) parcel.²¹

(3) A ROGO application for a given parcel shall not be for more dwelling units than are permitted by this chapter or the comprehensive plan.

(f) *Expiration of allocation award:* Except as provided for in this division, an allocation award shall expire when its corresponding building permit is not picked up after sixty (60) days of notification by certified mail of the award or, after issuance of the building permit, upon expiration of the permit pursuant to chapter 6.0.²²

(g) *Borrowing from future housing allocations:*

(1) The planning commission may award additional units from future annual dwelling unit allocations to fully grant an application for residential units in a project if such an application receives an allocation award for some, but not all, of the units requested.²³

(2) The board of county commissioners in approving affordable housing allocations pursuant to section 9.5-122 (c) may award additional units from future annual dwelling unit allocations if the number of available allocations is insufficient to meet specific project needs.²⁴

(3) The planning commission or board of county commissioners shall not reduce any future allocation by more than twenty (20) percent and shall not apply these reductions to more than five (5) annual allocations or twenty (20) quarterly allocations.²⁵

(h) ²⁶*Revision of ROGO application:* An applicant may elect to revise a ROGO application to increase the competitive points in the application without prejudice or change in the controlling date, if a revision is submitted on a form approved by the

²¹ This language specifically tries to limit the number of applications submitted under the lottery process to only one per applicant to limit impact of multiple applications from developers and contractors which would work against the intent of the lottery system.

²² The existing language has been revised to reflect adopted amendments in the Building Code (Chapter 6.0) and Section 9.5-113.

²³ This revised language expands the eligibility of units to apply future allocations from multi-family to any type of residential unit in a multi-unit project.

²⁴ This new language gives the board, similar to the planning commission, authority to borrow future allocations for affordable housing.

²⁵ The current borrowing provisions have no limit to the number of years or quarters from which these borrowed allocation can come. This loophole is closed with this five-year limit.

²⁶ The existing language has been revised to provide greater flexibility for applicants, as no public interest is served to penalize an applicant for adding additional points through dedication or aggregation of lots/land.

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planning director to the planning and environmental resources department by no later than thirty (30) days following the planning commission approval of the previous ROGO rankings.

(i) *Clarification of application data:*

- (1) At any time during the dwelling unit allocation review and approval process, the applicant may be requested by the director of planning or the planning commission, to submit additional information to clarify the relationship of the allocation application, or any elements thereof, to the evaluation criteria. If such a request is made, the director of planning shall identify the specific evaluation criterion at issue and the specific information needed and shall communicate such request to the applicant.
- (2) Upon receiving a request from the director of planning for such additional information, the applicant may provide such information; or the applicant may decline to provide such information and allow the allocation application to be evaluated as submitted.

(j) ²⁷ *Existing ROGO applications:* All applications in the ROGO system prior to the effective date of this ordinance shall be re-scored pursuant to criteria in section 9.5-122.4 and retain all existing perseverance points. For market rate housing, applicants will be required to formally declare through which system, lottery or competitive, they want their application processed to receive an allocation award under residential ROGO. If the applicants do not make such a declaration or if their application is deemed illegible by the planning director for inclusion in the lottery system, their application will be processed through the competitive system.

Sec. 9.5-122.2. Evaluation procedures for residential dwelling unit allocation.

(a) *Adjustment of residential ROGO allocations:* At the end of each quarterly allocation period, the planning director shall recommend additions or subtractions to the basic allocation available by subarea, based upon any of the following, as appropriate:

- (1) The number of building permits for new residential units issued which expired pursuant to chapter 6.0.
- (2) The number of dwelling unit allocation awards that expired prior to issuance of a corresponding building permit and which were awarded in the current annual allocation period;

²⁷ This provision vests applicants who are currently in the system for the points they have accrued for the years they have been in ROGO. Additionally, applicants for market rate housing will be required to declare under which process they want their applications processed.

- (3) The number of residential ROGO allocation awards available which were not allocated during the quarterly allocation period in the current annual allocation period;
- (4) The number of residential ROGO allocation awards in previous quarters which were borrowed from future allocations to accommodate multiple unit projects or to accommodate allocation applications with identical scores, pursuant to section 9.5-122.2(b)(2) or which were granted to applicants via either the appeals process, administrative relief or a beneficial use determination;
- (5) Residential ROGO allocations vested during the preceding quarter;
- (6) Any other modifications required or provided for by the comprehensive plan or an agreement pursuant to chapter 380, Florida Statutes;
- (7) The receipt or transfer of affordable housing allocations from or to municipalities pursuant to this chapter;
- (8) Allocations reserved and/or awarded by the board of county commissioners pursuant to section 9.5-122 (c).

(b) *Initial evaluation of allocation applications:* Upon receipt of completed allocation applications, the director of planning shall evaluate the allocation applications for market rate housing in the competitive system pursuant to the evaluation criteria set forth in section 9.5-122.4 and for market rate housing in the lottery system pursuant to section 9.5-122.5.

- (1) Except for affordable housing, the director of planning shall classify each allocation application by subarea and the type of system for approval, lottery or competitive.
- (2) On the evaluation cover page, for each allocation application, the director of planning shall indicate the subarea and the number of dwelling units for which allocation awards are being requested. Market rate allocation applications shall be aggregated by subarea and by the type of system for approval, lottery or competitive. Affordable housing allocation applications shall be aggregated on a county-wide basis.
- (3) Within thirty (30) days of the conclusion of a quarterly allocation period, unless otherwise extended by the board, the director of planning shall for market rate allocations.²⁸

²⁸ Applications in the lottery system will only be assigned numbers.

- a. Complete the evaluation of all allocation applications submitted through the competitive system during the relevant allocation period;
 - b. Total the number of dwelling units by subarea and by type of approval system for which allocation applications have been received; and
 - c. Rank the allocation applications in the competitive system in descending order from the highest evaluation point total to the lowest.
 - d. Assign by random to each allocation application in the lottery system a unique number to be used in the random selection of the application.²⁹
- (4) Within thirty (30) days of the conclusion of a quarterly allocation period, unless otherwise extended by the board, the director of planning shall for affordable housing allocations:³⁰
- a. Complete review of all allocation applications to confirm eligibility of applicants during the relevant allocation period;
 - b. Total the number of dwelling units for unincorporated Monroe County for which affordable housing allocation applications have been received; and,
 - c. List the affordable housing allocation applications in descending order of controlling date from earliest to latest date.
- (5) If the number of dwelling units represented by the allocation applications for market rate housing in the competitive system, by subarea, is equal to or less than the quarterly allocation, the director of planning may make a recommendation to the planning commission that all of the allocation applications for that subarea be granted allocation awards.
- (6) If the number of dwelling units represented by the allocation applications for affordable housing is equal to or less than the available allocation, the director of planning may make a recommendation to the planning commission that all of the allocation applications be granted allocation awards.

²⁹ Each quarterly period, a new set of unique numbers will be assigned to all applications that remain in the system/

³⁰ This approach reflects that affordable housing will not have to compete under the new ROGO system. Awarding of allocations will be done on a first-come, first served basis.

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- (7) If the number of dwelling units represented by the allocation applications for market rate housing in the competitive system, by subarea, is greater than the quarterly allocation, the director of planning shall submit an evaluation report to the planning commission indicating the evaluation rankings and identifying those allocation applications whose ranking puts them within the quarterly allocation, and those allocation applications whose ranking puts them outside of the quarterly allocation.
- (8) If the number of dwelling units represented by the allocation applications for affordable housing is greater than the total available allocation, the director of planning shall submit a report to the planning commission indicating the applications in order of their control dates and identifying those allocation applications for which sufficient allocations exist and those allocation applications whose ranking by controlling date puts them outside the available allocation.

(9) For allocation applications for market rate housing in the lottery system, the planning director shall make no recommendations, but provide a report to the planning commission listing by subarea, a list of each application with unique random number.

(c) *Public hearings:* Upon completion of the evaluation ranking report and/or recommendation, the director of planning shall schedule and notice a public hearing by the planning commission pursuant to otherwise applicable regulations.

- (1) At or prior to the public hearing, the planning commission may request, and the director of planning shall supply, copies of the allocation applications and the director of planning evaluation worksheets.

(2) The planning commission chairman or designee shall through mechanical or electronic means randomly select by unique number, market rate applications in the lottery system until the number of applications selected equals the quarterly allocation for that subarea.

- (3) Upon review of the market rate allocation applications in the competitive system and evaluation worksheets, the planning commission may adjust the points awarded for meeting a particular criteria, adjust the rankings as a result of changes in points awarded, or make such other changes as may be appropriate and justified.

- (4) The basis for any planning commission changes in the scoring or ranking of market rate applications in the competitive system shall be specified in the form of a motion to adopt the allocation rankings and may include the following:

- a. An error in the designation of the applicable subarea.

- b. A mistake in the calculation of dedicated or aggregated lots/land.
 - c. A mistake in assignment of the Tier map designation in the application.
 - d. Any other administrative error or omission that may cause the application to be incorrectly scored.
- (5) The public, including, but not limited to, applicants for allocation awards, shall be permitted to testify at the public hearing. Applicants may offer testimony about their applications or other applications; however, in no event may an applicant offer modifications to an application that could change the points awarded or the ranking of the application.
- (6) At the conclusion of the public hearing, the planning commission may:
- a. Move to accept the evaluation rankings for market rate housing applications in the competitive system, selection of market rate housing applications by random in the lottery system, and rankings for affordable housing applications as submitted by the director of planning.
 - b. Move to accept the rankings as may be modified as a result of the public hearing.
 - c. Move to continue the public hearing to take additional public testimony.
 - d. Move to close the public hearing but to defer action on the evaluation rankings pending receipt of additional information.
 - e. Move to reject the rankings.
- (6) The planning commission shall finalize the rankings within sixty (60) days following initial receipt of the director of planning evaluation ranking, report and recommendations.
- (d) *Notification to applicants:* Upon finalization of the evaluation rankings by the planning commission, notice by subarea of ranking or selection for market rate housing and, and county-wide for affordable housing, shall be posted at the planning and environmental resources department offices and at such other places as may be designated by the planning commission.
- (1) Applicants who receive allocation awards shall be further notified by certified mail, return receipt requested. Except as provided herein for allocations for affordable housing awarded by the board of county

commissioners pursuant to section 9.5-122(b) and paragraph (g) below, upon receipt of notification of an allocation award, the applicant may request issuance of a building permit for the applicable residential dwelling unit.

- (2) ³¹Applicants who fail to receive allocation awards shall be further notified by regular mail; without further action by such applicants nor the payment of any additional fee, such applications shall remain in the residential ROGO system for reconsideration in the next succeeding quarterly allocation period.

(e) ³²*Identical rankings for market rate housing applications in competitive system:* If two (2) or more allocation applications in a given subarea in the competitive system have identical evaluation points, these applications shall be ranked in descending order from the earliest controlling date of submission to the latest. The planning commission may approve two (2) or more allocation applications with identical rankings and controlling dates despite the fact that the quarterly allocation will be exceeded if:

- (1) A clear statement of findings of fact are made justifying the decision; and
- (2) The excess allocation is reduced from the next succeeding quarterly allocation period or is reduced pro rata from the next three (3) quarterly allocation periods

(f) *Identical controlling dates for affordable housing applications:* If two (2) or more allocation applications for affordable housing have identical controlling dates and at least one affordable housing allocation remains available to be awarded, the planning commission may approve two (2) or more allocation applications with identical rankings through borrowing of future allocations pursuant to section 9.5-122.1 (g).

(g) *Multi-unit affordable housing projects:* Upon the written approval of the planning director, the expiration period for an allocation award for affordable multi-unit housing projects may be extended where the applicant is unable to be granted a sufficient number of allocations required to initiate the project.³³

9.5-122.3. Administrative relief.

(a) *Eligibility:* An applicant for an allocation award is eligible for administrative relief if:³⁴

³¹ This revised language removes the certified mail requirement for notification of applicants who do not receive an award reducing costs and time requirements.

³² This section has been rewritten to make it more clear that the controlling date is used to break "ties" among applications with identical scores.

³³ This codifies a policy of the Growth Management Division in assisting affordable multi-family projects.

³⁴ This revision is intended to address the administrative problems created by applicants filing before the four-year period. Existing language has also been revised to improve its readability.

- (1) The application complies with all requirements of the dwelling unit allocation system; and
- (2) Was considered in the first four (4) consecutive annual allocation periods; and
- (3) Has not received an allocation award.

(b) *Application:* An application for administrative relief shall be made on a form prescribed by the director of planning and may be filed with the planning and environmental resources department no earlier than the conclusion of the fourth annual allocation period and no later than one hundred twenty (120) days following the close of the fourth annual allocation period.

(c) *Forwarding application to board:* Upon the filing of an application for administrative relief, the director of planning shall forward to the board all relevant files and records relating to the subject applications. Failure to file an application shall constitute a waiver of any rights under this section to assert that the subject property has been taken by the county without payment of just compensation as a result of the dwelling unit allocation system.

(d) *Public hearing:* Upon receipt of an application for administrative relief, the board shall notice and hold a public hearing at which the applicant will be given an opportunity to be heard. The board may review the relevant applications and applicable evaluation ranking, taking testimony from county staff and others as may be necessary and hear testimony and review documentary evidence submitted by the applicant.

(e) *Board's action:* At the conclusion of the public hearing, the board may take any or a combination of the following actions:

- (1) Grant the applicant an allocation award for all or a number of dwelling units requested in the next succeeding quarterly allocation period or extended pro rata over several succeeding quarterly allocation periods.
- (2) ³⁵Offer to purchase the property at its fair market value if the property is located within:
 - a. a designated Tier I area;
 - b. a designated Tier II area requiring the clearing of five-thousand (5,000) or more square feet of upland native vegetation; or
 - c. a designated Tier II or Tier III area on a non-waterfront lot suitable for affordable housing.

³⁵ These regulations provide specific criteria to be followed in acquiring land under Administrative Relief.
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- (3) Suggest or provide such other relief as may be necessary and appropriate.

³⁶**Sec. 9.5-122.4. Competitive system evaluation criteria.**

The evaluation criteria in this section shall be applied to market rate applications submitted in the competitive system. The point values established on the following pages are to be applied cumulatively.

(a) *Tier designation:* The following points are intended to discourage development in environmentally sensitive areas and to direct and encourage development in appropriate infill areas, while recognizing that any development has an impact on the carrying capacity of the Florida Keys:

<i>Point Assignment:</i>	<i>Criteria:</i>
0	An application which proposes a dwelling unit within an area designated Tier I [Natural Area].
+10	An application which proposes development within an area designated Tier II [Transition and Sprawl Reduction Area] on Big Pine Key or No Name Key.
+20	An application which proposes development within an area designated Tier II [Transition and Sprawl Reduction Area] outside of Big Pine Key or No Name Key.
+20	An application which proposes development within an area designated Tier III [Infill Area] on Big Pine Key or No Name Key.
+30	An application which proposes development within an area designated Tier III [Infill Area] outside of Big Pine Key or No Name Key.

(b) *Big Pine Key and No Name Key only:* The following additional negative points are intended to implement the Habitat Conservation Plan and the Livable CommuniKeys Community Master Plan for Big Pine Key and No Name Key.

³⁶ The points, which can be obtained to make a project more competitive, have been reduced to only include those that are awarded for reducing development potential county-wide and acquiring environmental lands threatened by development. The initial point assignment given to the applications depending on the Tier where the proposed development is located incorporates both the previously applied negative environmental and positive infill criteria. Most of the building points that were previously assigned for wind load and sustainability have been eliminated or are no longer meaningful due to changes in building code.

<i>Point Assignment:</i>	<i>Criteria:</i>
-10	An application which proposes a dwelling unit on No Name Key.
-10	An application, which proposes development in designated Lower Keys Marsh Rabbit habitat or buffer areas as designated in the Community Master Plan.
-10	An application, which proposes development in Key Deer Corridor as designated in the Community Master Plan.

(c) *Lot aggregation:* The following points are intended to encourage the voluntary reduction of density through aggregation of vacant, legally platted, buildable lots with density allocation by lot.³⁷

<i>Point Assignment:</i>	<i>Criteria:</i>
+4	An application which aggregates a contiguous vacant, legally platted, vacant buildable lot, zoned IS, IS-D, URM, URM-L, or CFV, located within a II or Tier III designated area together with the parcel proposed for development.
+4	Each additional contiguous vacant, legally platted, buildable lot which is aggregated within an area designated Tier II or Tier III that meets the above requirements will earn the application the additional points as specified.
	<i>Additional requirements</i>
	1. The proposed development shall not involve the clearing of more than 5,000 square feet of upland native vegetation or the open space requirements in section 9.5-347, whichever is less. ³⁸

³⁷ Aggregation is not permitted in Tier I because it facilitates and encourages development of this critical upland habitat. The points have been raised for lot dedication to make them equal with lot aggregation to allow more flexibility in awarding points to donated platted lots that are not buildable.

³⁸ This reflects the change in Policy 205.2.7.

	<p>2. The application shall include but not be limited to the following:</p> <ul style="list-style-type: none"> *An affidavit of ownership of all affected parcels, acreage or land; and *A legally binding restrictive covenant limiting the number of dwelling units on the aggregated lot, running in favor of Monroe County and enforceable by the county, subject to the approval of the growth management director and county attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award.
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(d) *Land dedication:* The following points are intended to encourage the voluntary dedication of vacant, buildable land within Tier I and Tier II areas for the purposes of conservation, resource protection, restoration or density reduction, and if located within Tier II or Tier III, for the purpose of providing land for affordable housing where appropriate.³⁹

<i>Point Assignment:</i>	<i>Criteria:</i>
+4	An application which includes the dedication to Monroe County of one (1) vacant, legally platted, buildable lot, zoned IS, IS-D, URM, URM-L, or CFV. Each additional vacant, legally platted, buildable lot which is dedicated that meets the above requirements will earn the application the additional points as specified.
+1 for each 5,000 square feet of lot area	An application which includes the dedication to Monroe County of a vacant legally platted, buildable lot of five thousand (5,000) square feet or more within a Suburban Residential District (SR) or Suburban Residential – Limited District (SR-L) within a designated Tier I area. Each additional vacant, legally platted, buildable lot of five thousand (5,000) square feet or more that meets the above

³⁹ Allows land dedicated under ROGO in Tier II or Tier III, if appropriate, to be used for affordable housing.

	requirements will earn points as specified.
+0.5	An application which includes the dedication to Monroe County of one (1) vacant, legally platted, buildable lot of five thousand (5,000) square feet or more within a Native Area District (NA) or Sparsely Settled District (SS) in a designated Tier I area. Each additional vacant, legally platted, buildable lot that meets the above requirements will earn the half (0.5) point as specified.
+3	An application which includes dedication to Monroe County of at least one-acre (1) of vacant, unplatted, buildable land located within a designated Tier I area. Each additional one (1) acre of vacant, unplatted, buildable land that meets the above requirements will earn the points as specified.
	<i>Additional requirements:</i>
	<p>1. The application shall include but not be limited to the following:</p> <ul style="list-style-type: none"> * An affidavit of ownership of all affected lots, parcels, acreage or land; and * A statutory warranty deed, that conveys the dedicated property to the county shall be approved by the growth management director and county attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award. <p>2. Lots or parcels dedicated for positive points under this paragraph shall not be eligible for meeting the mitigation requirements of the Big Pine Key and No Name Key Overlay Zone.</p>

(f) *Market rate housing in employee or affordable housing project:* The following points are intended to provide further incentives for provision of market rate housing within employee housing projects:

<i>Point Assignment:</i>	<i>Criteria:</i>
+ 3	An application for market rate housing unit which is part of employee or affordable housing project.
	<i>Additional Requirements:</i>
	The market rate dwelling unit must be part of an approved employee or affordable housing project and meet all the requirements and conditions pursuant to section 9.5-266(a) and this chapter.

(g) *Special flood hazard area:* The following points are intended to discourage development within high risk special flood hazard zones:⁴⁰

<i>Point Assignment:</i>	<i>Criteria:</i>
- 4	An application which proposed development within a "V" zone on the FEMA Flood Insurance Rate Map.

(h) *Central wastewater treatment system availability:* The following points shall be assigned to encourage development in areas served by central wastewater treatment systems:⁴¹

<i>Point Assignment:</i>	<i>Criteria:</i>
+ 4	An application which development required to be connected to a central wastewater treatment system that meets BAT/AWT standards established by the Florida Legislature.

(i) *Perseverance points:* The following points are intended to reward an application based upon the number of years spent in the residential ROGO system without receiving an allocation award.

⁴⁰ This revision eliminates the negative points for "A" zones, in which the predominate number of properties are located and the positive points for "X" zones that only affect a very insignificant number of properties.

⁴¹ This language is intended to encourage infill development in areas served by central sewer systems being upgraded or constructed to meet 2010 Wastewater Treatment Standards mandate; maximize public investment; reduce the average EDU operating/maintenance costs of these systems; and, help recoup capital costs.

<i>Point Assignment:</i>	<i>Criteria:</i>
+ 1	A point shall be awarded on the anniversary of the controlling date for each year that the application remains in the ROGO system up to four (4) years.
+ 2	Points shall be awarded on the anniversary of the controlling date for each year over four (4) that the application remains in the ROGO system.

(j) *Payment to land acquisition fund:* Up to three (3) points shall be awarded for a monetary payment to the County's Land Acquisition Fund for the purchase by the County of lands for conservation and affordable housing and retirement of development rights. Points for payment to this fund shall be assigned as follows:⁴²

<i>Point Assignment:</i>	<i>Criteria:</i>
+ 1 to +3	Proposes payment to the County's Land Acquisition Fund in an amount equal to the monetary value of a ROGO dedication point times the number of points to be purchased up to a maximum of three (3) points.
	<i>Additional Requirements:</i>
	<ol style="list-style-type: none"> 1. The monetary value of each point shall be established annually by resolution of the board of county commissioners. 2. The monetary value of each point shall be based upon the average ad valorem value of privately-owned, vacant, IS/URM platted lots divided by four (4). 3. Payment to the County's Land Acquisition Fund shall be made prior to the issuance of any building permit pursuant to an allocation award.

⁴² This new provision allows payment to a County Land Acquisition Fund in lieu of lot dedication; however, the number of points that can be purchased are limited to only three.

Sec. 9.5-122.5 Lottery system eligibility criteria.⁴³

The eligibility criteria in this section shall be applied to market rate applications submitted in the lottery system. The minimum number of points required by an application to be eligible for entry to the lottery system is thirty (30). The point values established on the following pages are to be applied cumulatively.

(a) *Tier designation:* Points shall be assigned pursuant to the evaluation criteria in section 9.5-122.4 (a). These points are intended to encourage development in appropriate infill areas and less environmentally sensitive areas.

(b) *Lot aggregation:* Points shall be assigned pursuant to the evaluation criteria in section 9.5-122.4 (c). These points are intended to provide a mitigation option for development outside of Tier III designated areas through reduction of density by the aggregation of vacant, legally platted, buildable lots.

(c) *Land dedication:* Points are assigned pursuant to the evaluation criteria in section 9.5-122.4 (d). These points are intended to provide a mitigation option for development outside of Tier III designated areas through dedication of vacant, buildable land within Tier I and Tier II areas for the purposes of conservation, resource protection, or density reduction, and, where appropriate if located within Tier II, for the purpose of providing affordable housing.

(e) *Special flood hazard area:* Points are assigned pursuant to the evaluation criteria in section 9.5-122.4 (g). These points are intended to encourage development outside of high risk special flood hazard zones:

Sec. 9.5-123. Reserved.

Sec. 9.5-125. Appeals.⁴⁴

(a) An appeal from the decision of the planning commission on a ROGO or NROGO allocation shall be made to the board of county commissioners. The notice of such appeal shall be in a form prescribed by the director of planning and must be filed with the director of planning within twenty (20) days of the planning commission's decision. Upon the filing of an appeal, the planning commission's secretary will forward to the board all relevant files and records relating to the matter. Failure to file an appeal with the board shall constitute a waiver of any rights under this chapter to further the

⁴³ This eligibility criteria for the lottery system is mirrors that of the competitive system except that it does not include Big Pine Key and No Name Key or market rate housing. The threshold assumes that any buildable lot within Tier III and outside of a "V" zone is automatically eligible. The purposes of the point system have been slightly modified to reflect their slightly different purposes than under a strictly competitive system.

⁴⁴ The existing language provides no administrative appeals from Planning Commission decisions on non-residential allocations. This revised language incorporates the appeal of both ROGO and NROGO in one section.

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decision of the planning commission on the awarded dwelling unit or non-residential floor space allocations.

(b) The filing of an appeal shall not stay either the action of the planning commission or the action of the director of planning.

(c) If, as a result of a successful appeal, additional allocation awards are to be made, the board shall instruct the director of planning as to how many dwelling units or non-residential floor space applications shall receive allocation awards, when such allocation awards are to be made and what effect such additional allocation awards will have on the current annual or quarterly dwelling unit allocation or current annual allocation for non-residential floor space. To ensure that the residential dwelling unit allocations set forth in sections 9.5-122 and 9.5-124.4 are not exceeded, the director of planning shall inform the planning commission of the results of the appeal and the disposition of any additional allocation awards

AMENDMENT #2

Amend Section 9.5-266(a)(5) as follows:⁴⁵

- (5) Notwithstanding the provisions of sections 9.5-261 through 9.5-270, some or all of any lawfully established floor area situated on a parcel ~~of at least one (1) gross acre containing affordable or employee housing~~ shall be excluded from the calculation of the total gross of development allowed on the parcel if at least one affordable or employee housing unit is co-located on the parcel. For purposes of this exclusion a floor area ration of twenty-five (25) percent shall be assumed. The exclusion of floor area shall be in accordance with the following criteria:
- a. If the parcel of land is less than two (2) gross acres, the project's total nonresidential floor area or two thousand (2,000) square feet, whichever is less, shall be excluded from the calculation; or
 - b. If the parcel of land is two (2) or more ~~(2)~~ gross acres, the project's total nonresidential floor area or four thousand (4,000) square feet, whichever is less, shall be excluded from the calculation.

AMENDMENT #3

Amend Section 9.5-266(a)(3) as follows:⁴⁶

⁴⁵ This revision provides incentives for provision of affordable and employee housing on lots smaller than one acre which predominate in the Keys.

⁴⁶ The revision is required due to the elimination of scoring for affordable housing and new incentives for mixing market rate housing with affordable.

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- (3) Market rate housing developed in accordance with paragraph (8) below shall be eligible to receive points ~~as affordable housing under section 9.5-122.3(a)(6).~~ pursuant to section 9.5-122.4(f).

AMENDMENT #4

Amend Section 9.5-266(a)(6) c. thorough f. as follows:⁴⁷

- c. The use of the affordable or employee dwelling unit is restricted for a the period of least fifty (50) years specified in section 9.5-266(f)(1).
- d. ~~The size of the affordable or employee housing dwelling unit is limited by a condition to be placed on the development permit which restricts the habitable space of the unit to a maximum of one thousand three hundred (1,300) square feet for a period of at least fifty (50) years ; and,~~
- ~~e.d.~~ Tourist housing use or vacation rental use of affordable or employee housing units is prohibited.
- ~~f. e.~~ The parcel of land proposed for development of affordable or employee housing ~~shall not qualify for negative points under section 9.5-122(a)(7),(8) or (9); however, properties designated IS-D, UR, URM or URM-L shall be exempt from this prohibition~~ shall only be located within a Tier II or III designated area. If the parcel is located within a Tier II designated area, the amount of clearing of upland native vegetation shall be limited to the open space requirements pursuant to section 9.5-347 or five-thousand (5,000) square feet whichever is less.

AMENDMENT #5

Renumber Section 9.5-266(a)(6) g. through K. to f. through j. respectively.

AMENDMENT #6

Amend Section 9.5-266(a)(8) a. as follows:⁴⁸

⁴⁷ Recent amendments to the length of restrictive covenants conflict with existing language in the code. The length of covenant should be based on financing source to be consistent with Section 9.5-266(f)(1): 30 years for a wholly privately financed project; and 50 years for a partly or wholly publicly financed project, except for County wholly or partially financed projects as set forth in Section 9.5-122(d)(6). The limits on the size of the affordable/employee housing units has been eliminated as unnecessary, particularly with the threshold on the sales price of these units.

⁴⁸ This amendment is necessary to eliminate conflict with recent changes to restrictive covenants for non-public financed projects.

- a. The use of the market rate housing dwelling unit is restricted for a period of at least ~~fifty (50)~~ thirty (30) years to households that derive at least seventy (70) percent of their household income from gainful employment in Monroe County.

AMENDMENT #7

Delete Section 9.5-266(a)(9):⁴⁹

- ~~(9) Market rate housing dwelling units are not restricted to the thirteen hundred (1,300) square foot limitation on habitable space for affordable and employee housing.~~

AMENDMENT #8

Amend Section 9.5-266(f)(1) as follows:⁵⁰

- (1) Before any building permit may be issued for any structure, portion or phase of a project subject to this section, a restrictive covenant(s), approved by the growth management director and county attorney, shall be filed in the Official Records to ensure compliance with the provision of this section running in favor of Monroe County and enforceable by the county and, if applicable, a participating municipality. The following requirements shall apply to these restrictive covenants:
 - a. Except as provided for under paragraph (1)d. below, the covenants for any affordable or employee housing units partly or wholly financed by a public entity other than Monroe County shall be effective for a period of at least fifty (50) years.
 - b. Except as provided for under paragraph (1)d., below, the covenants for any affordable or employee housing units relying wholly upon private non-public financing shall be effective for at least thirty (30) years.
 - c. The covenants for any affordable or employee housing units partly or wholly financed by Monroe County shall be effective for a period of at least ninety-nine (99) years.⁵¹
 - d. If approved by the Board of Commissioners as a condition of the reservation of a ROGO allocation pursuant to section 9.5-122(c),

⁴⁹ This language is superfluous with the elimination of the 1,300 square foot limitation.

⁵⁰ These revisions reflect the proposed policy change to require affordable or employee housing to be guaranteed in perpetuity (99 years) if financed by Monroe County or if required by the BOCC as a condition of reserving an affordable housing allocation, as proposed under Section 9.5-122(c).

⁵¹ This provision initiates efforts to ensure that most new affordable housing will be protected in perpetuity.
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the covenants for any affordable or employee housing shall be restricted to use as an affordable housing or employee dwelling unit for a period of at least ninety-nine years.⁵²

- e. The covenants shall not commence running until a certificate of occupancy as been issued by the building official for the dwelling unit or dwelling units to which the covenant or covenants apply.

AMENDMENT #9

Amend Section 9.5-266 (f)(3) as follows:⁵³

- (3) The eligibility of a potential owner-occupier or renter of an affordable, employee or market rate housing dwelling unit, developed as part of an employee or affordable housing project, shall be determined by the planning department upon submittal of an affidavit of qualification to the planning department. The form of the affidavit shall be ~~in a form~~ prescribed by the planning ~~department~~ director. This eligibility shall be determined by the planning department as follows:
 - a. At the time the potential owner either applies for affordable housing ROGO allocation, or applies to purchase a unit that utilized affordable housing ROGO allocation; or
 - b. At the time the potential renter applies to occupy a residential unit that utilized an affordable ROGO allocation.

AMENDMENT #10

Create a new Section 9.5-266(f)(7) that reads as follows:⁵⁴

- (7) Upon written agreement between the planning director and an eligible governmental or non-governmental entity, the planning director may authorize that entity to administer the eligibility and compliance requirements for the planning department under paragraphs (3), (4) and (5) above. Under such an agreement, the eligible entity is authorized to qualify a potential owner-occupier or renter of affordable, employee, or market rate housing developed as part of an employee or affordable housing project, and annually verify the employment and/or income eligibility of tenants pursuant to section 9.5-266(f)(2). The entity shall still

⁵² This provision allows the Board to protect housing unit in perpetuity on a case-by-case basis, where no County funding is involved, where the applicant seeks and obtains a reserved allocation.

⁵³ Minor revisions are intended to improve the wording of the text.

⁵⁴ These amendments coupled with a new paragraph (6) codify the existing Planning Department policy of delegating authority to public agencies or non-governmental not-for-profit housing providers for determining eligibility of potential tenants for affordable housing and annual verification that tenants meet Section 9.5-266 (f)(2) income and employment requirements.

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be required to provide the planning department by January 1 of each year a written certification verifying that tenants of each affordable, employee, or market rate housing meet the applicable employment and income requirements of paragraph (2) above. The following governmental and non-governmental entities shall be eligible for this delegation of authority:

- a. The Monroe Housing Authority, not-for-profit community development organization(s) pursuant to section 9.5-266(e), and other public entities established to provide affordable housing;
- b. Private developers or other non-governmental organization participating in a federal/state housing financial assistance or tax credit program or receiving some form of direct financial assistance from Monroe County; or
- c. Non-governmental organizations approved by the board of county commissioners as affordable housing providers.

AMENDMENT #11

Create a new Section 9.5-266(f)(8) as follows:⁵⁵

- (8) Should an entity fail to satisfactorily fulfill the terms and conditions of the written agreement executed pursuant to paragraph (6) above, the planning director shall provide written notice to the subject entity to show cause why the agreement should not be terminated within thirty (30) days. If the entity fails to respond or is unable to demonstrate to the satisfaction of the planning director that it is meeting the terms and conditions of its agreement, the agreement may be terminated by the planning director within thirty (30) days of the written notice.

⁵⁵ In the highly unlikely event that an entity is unable to fulfill the terms and conditions of its written agreement, this paragraph provides for the planning director to terminate the agreement. The planning director's decision may be appealed to the planning commission as any administrative decision.
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PROPOSED AMENDMENTS TO THE
COMPREHENSIVE PLAN TO
DELETE THE HEI AND IMPLEMENT
REVISIONS TO OPEN SPACE, LAND
ACQUISITION, AND MANAGEMENT
AND GIS MAPPING

DRAFT
OCTOBER 25, 2004

**Proposed Amendments to
The Comprehensive Plan To Delete The HEI and
Implement Revisions To Open Space, Land Acquisition,
And Management, and GIS Mapping**

Amendment #1

Delete Policy 101.4.20

Amendment #2

Amend Policy 101.4.22 as follows:¹

Policy 101.4.22

All ~~densities and intensities~~ development shall be subject to clearing limits defined by habitat and the location of the property in the Land Use District (zoning) Overlay Tier Maps and the wetland requirements in 102.1.1. ~~habitat per current Land Development Regulations, Division 8, hereby incorporated by reference. In the case of upland hardwood and pineland forests the open space is determined by the results of the habitat analysis (see Conservation and Coastal Management, Objective 205.2 and related policies).~~ Except as defined in Policy 101.12.4, clearing of upland native vegetation areas in the Tiers I, II, and III shall be limited for the portion of the property containing upland native vegetation in the following percentages:

TIER	Permitted Clearing
Tier I	10%
Tier II	40%
Tier III	60%

Amendment #3

Amend Policy 101.14.1:²

Policy 101.14.1

Monroe County shall discourage developments proposed within the Coastal High Hazard Area (CHHA). ~~by methods including, but not limited to, negative points in the Permit Allocation and Point System (see Policy 101.5.4).~~ [9J-5.006(3)(c)1]

Amendment #4

Amend Policy 102.1.1 as follows:³

¹ This revision reflects that clearing and open space will be controlled by the Tier designation based on the existing conditions rather than the environmental regulations that are based on the 1986 habitat maps.

² This revision reflects that the majority of the CHHA are in Tier I and are therefore receive a lower score.

³ The revisions update the Policy to reflect the wetland regulations currently in effect.

Policy 102.1.1

~~Upon adoption of the Comprehensive Plan, The County shall utilize the Environmental Standards, found in Section 9.5-336 through 9.5-342 of the Land Development Regulations (hereby incorporated by reference) to protect submerged lands and wetlands. Accordingly, The open space requirement shall be one hundred (100) percent of the following types of wetlands:~~

1. Submerged lands
2. mangroves
3. salt ponds
4. fresh water wetlands
5. fresh water ponds
6. undisturbed salt marsh and buttonwood wetlands

~~Upon adoption of the Comprehensive Plan the County shall further protect its wetlands by requiring a one hundred (100) percent open space requirement for undisturbed salt marsh and buttonwood wetlands and by requiring A 50 foot buffer shall be required around freshwater resources.~~

⁴Allocated density (dwelling units per acre) shall be assigned to freshwater wetlands and undisturbed salt marsh and buttonwood wetlands only for use as transferable development rights away from these habitats. Submerged lands, salt ponds, freshwater ponds, and mangroves shall not be assigned any density or intensity. [9J-5.006(3) (c) 1 and 6]

Amendment # 5

Amend Objective 102.4 as follows:⁵

Objective 102.4

Monroe Country shall prepare a Land Acquisition Master Plan by July 1, 2005 containing a strategy for securing funding and non-funding sources for acquisition and management of conservation lands, retirement of development rights and identification and purchase of sites for affordable and employee housing and recreational purposes⁶. By January 4, 1998, Monroe County shall establish the Monroe County Natural Heritage and Park Program. The purpose of this plan shall be to acquire lands and open space in the public interest for conservation and recreation purposes. [9J-5.006(3)(b)4, 10 and 9J-5.010(2)(c)3]

Policy 102.4.1

~~The Monroe County Land Acquisition Master Plan -Natural Heritage and Park Program shall be developed and implemented by the Growth Management Division, in cooperation with the Monroe County Land Authority, FDEP, FDCA, FWC, and USFWS, with the Parks and Recreation Board and other knowledgeable county and state agencies. [9J-5.006(3)(c)4 and 6]~~

⁴ Wetland setbacks are defined in Policy 204.2.6, deleting the reference here will prevent confusion.

⁵ This revision is to incorporate changes in the land acquisition priorities in Monroe County with the completion of the Florida Keys Carrying Capacity Study and adoption Of Goal 105.

⁶ Land acquisition for affordable housing is an additional element included in the Land Acquisition Master Plan.

Policy 102.4.2

The Land Authority and the Growth Management Division shall identify and prioritize the types of lands which shall be considered for acquisition. These shall include, at a minimum:

1. designated Tier I (Conservation and Natural Areas) lands as defined in Policy 105.2.1.1, which shall include all contiguous hammock areas above four acres, restoration areas between fragmented hammocks to increase the contiguous hammock size and buffers where appropriate; lands containing naturally occurring and native habitats;
2. fresh water wetlands, and undisturbed salt marsh, and buttonwood wetlands that are required under Policy 102.1.1;
3. designated Tier II lands as defined in Policy 204.2.1.2 that provide habitat for small birds and animals and contribute to the quality of the neighborhoods;
4. lands containing unique geologic features;⁷
5. lands whose conservation would enhance or protect water quality or would protect fish or wildlife habitat, which cannot be adequately protected through local, state and federal regulatory programs;
6. lands in Tier II and Tier III for employee and affordable housing;⁸
7. lands which can be used, without adverse impacts on natural resources, for community and neighborhood parks and/or public beaches water access; and
8. lands, which offer the opportunity for preservation of significant archaeological or historical sites. [9J-5.006(3)(c)4 and 6]

Policy 102.4.3

The Land Authority and Growth Management Division shall develop a priority list of ~~Natural Heritage and Park~~ acquisition sites. This list shall be updated annually. In formulating this list the County will prioritize Tier I lands over Tier II and Tier III lands. Tier II lands with fragmented hammocks and wetlands identified in Policy 102.4.2.2 shall be the second highest priority for acquisition. Acquisition of land for affordable housing on vacant scarified lands in Tier II and III shall also be a first priority. ~~will consider freshwater lenses and recharge areas, especially those~~

⁷ Staff can think of none in the County.

⁸ This revision adds land for employee and affordable housing to the list of acquisition areas, in the past this sections did not include implementation of a housing goal.

which overlap the habitats of endangered or threatened wildlife species, as a high priority. [9J-5.006(3)(c)4 and 6]

Policy 102.4.4

The Monroe County Land Acquisition Master Plan shall contain an acquisition financing plan shall be developed annually which identifies potential sources of funding for acquisition of lands on the Priority List. Funding sources which shall be considered include the following: Land acquisition will be a coordinated effort between the state and federal governments and the county. The county shall petition the state and federal government to accept primary responsibility for acquisition of Tier I, conservation and natural lands. The county will be responsible for purchases in Tier II and Tier III of wetlands and fragmented hammock areas. Land acquisition for other priorities depend on funding availability, need and future use.

1. ~~Florida Recreation Development Assistance Program;~~
2. ~~Preservation 2000 Trust Fund~~
3. ~~Conservation and Recreation Lands (CARL) Program;~~
4. ~~_____~~
5. ~~Land and Water Conservation Fund;~~
6. ~~Urban Parks and Recreation Recovery (UPARR) Action Grants;~~
7. ~~local funds made available from fair share community park impact fees (paid pursuant to the Monroe County Land Development Regulations); and~~
8. Local funds as may be made available through special appropriation by the Monroe County Board of County Commissioners.—[9J-5.006(3)(c)4 and 6]

Policy 102.4.5

An intergovernmental organization and management structure shall be developed to implement the expanded acquisition program, including representatives of Growth Management Division, Land Authority, municipalities and state and federal agencies.

~~The Growth Management Division shall, in coordination with the Grants Manager, make applications to funding sources as identified in the annual acquisition financing plan.—[9J-5.006(3)(c)4 and 6]~~

Amendment #6

Delete existing Policy 102.4.6 and create new Policy 102.4.6

Policy 102.4.6

The Monroe County Land Acquisition Master Plan shall contain policies to direct the over-all acquisition program, criteria to follow when setting priorities for acquisition and a framework for the acquisition process and the sharing of responsibilities. At a minimum the plan will include the following:

1. Environmental protection, density reduction and passive recreation
 - a) public acquisition, ownership and maintenance will be the preferred option for Tier I lands and for clusters of undisturbed wetland and hammock lots in Tier II and Tier III;
 - b) buy/sell back to the adjacent property owners option will be followed in Tier II, where sprawl and density reduction are the prime impetus for land purchase. A higher priority for acquisition will be given to those parcels in Tier II with neighboring properties owners or communities who want to partner with the county to purchase the lots and take responsibility for maintenance and protection of any areas of native vegetation;
 - c) purchased lands that can also provide needed recreational opportunities will be identified in coordination with the Parks and Recreation Board and a plan for utilization developed;
 - d) non-purchase options will also be explored and specific recommendations included;
 - e) criteria for the prioritization of land acquisitions within the different priority areas will include 1) the size and the location of the property and surrounding land uses including management status, 2) minimization of the edge to area ratio of parcels by combining lots for acquisition, 3) potential for successful reclamation if within a larger, better hammock quality area, and 4) maintenance costs for isolated parcels.
2. Affordable and employee housing
 - a) parcels in Tier II and Tier III that are suitable for the development or redevelopment of six or more residential units will be identified and prioritized for acquisition;
 - b) priority for acquisition will be given to projects that are ready to proceed with ROGO allocations available;
 - c) public/private/non-profit partnerships and/or agreements exist to develop the site and maintain the affordability of residential units in perpetuity.

Amendment #7

Create new Policy 102.4.7

Policy 102.4.7

Lands acquired through the Monroe County Land Acquisition Program shall be managed to restore, preserve, and protect the conservation, recreation, density reduction and affordability purposes for which the lands were acquired. (See Recreation and Open Space Objective 1201.11 and related policies.) [9J-5.006(3)(c)4 and

Amendment # 8

Amend Policy 102.7.3 as follows:⁹

Policy 102.7.3

Monroe County shall discourage developments proposed on offshore islands by methods including, but not limited to, designating off shore islands as Tier I lands. ~~negative points in the Permit Allocation and Point System~~ [9J-5.006(3)(c)6]

Amendment # 9

Amend Policy 102.8.1 ¹⁰

Policy 102.8.1

Monroe County shall discourage developments which are proposed in units of Coastal Barrier Resources System (CBRS). ~~by methods including, but not limited to, negative points in the Permit Allocation and Point System (see Policy 101.5.4). (See Objectives 101.2, 101.3, and 101.5 and related policies)~~ [9J-5.006(3)(c)6]

Amendment # 10

Amend Policy 102.8.5 as follows: ¹¹

Policy 102.8.5

~~Upon adoption of the Comprehensive Plan,~~ Monroe County shall ~~initiate~~ continue ~~its efforts to discourage the extension of facilities and services provided by the Florida Keys Aqueduct Authority and private providers of electricity and telephone service to CBRS units. These efforts shall include providing each of the utility providers with:~~

1. a map of the areas of Monroe County which are included in CBRS units;
2. a copy of the Executive Summary in Report to Congress: Coastal Barrier Resources System published by the U.S. Department of the Interior, Coastal Barriers Study Group, which specifies restrictions to federally subsidized development in CBRS units; and
3. Monroe County policies regarding local efforts to discourage both private and public investment in CBRS units; and
4. ~~Monroe County regulations regarding development in CBRS units, including the Permit Allocation System regulations, which commits negative points for development in CBRS units. (See Policy 101.5.4.)~~ [9J-5.006(3)(c)6]

⁹ This revision demonstrates how the ROGO and NROGO system is being modified to protect off shore islands without assigning negative points on an individual basis.

¹⁰ CBRS are included in Tier I and are protected by the Tier points in ROGO and NROGO.

¹¹ Negative points are no longer needed because the CBRS units are included in Tier I.

Amendment # 11

Amend Objective 102.9 as follow:¹²

Objective 102.9

~~By January 4, 1998, Monroe County shall complete and implement a cooperative land management program for private and county publicly owned lands acquired through implementation of the Monroe County Land Acquisition Master Plan (Objective 102.2), Goal 105 and the FKCCS, located within and adjacent to parks and conservation lands which are owned by the state and federal governments in the Florida Keys. [9J-5.006(3)(b)4]~~

Policy 102.9.1

~~Monroe County shall discourage developments which are proposed in Tier I through the permit allocation system and the environmental regulations, within Conservation Land Protection Areas (as defined in Policy 102.9.3 below) by methods including, but not limited to, negative points into the Permit Allocation and Point System (see Policy 101.5.7). (See Objectives 101.2, 101.3 and 101.5 and related policies.) [9J-5.006(3)(c)6]~~

Policy 102.9.2¹³

~~Upon adoption of the Comprehensive Plan, Monroe County, in cooperation with appropriate state and/or federal agencies, shall initiate Conservation Land Protection Area a planning process to develop policies to direct the over-all management program for publicly owned native lands. Changes in policies and specific management strategies may be modified as the program progresses, acquisitions continue and new information becomes available through biological research or monitoring of the management units, conservation lands in Monroe County. The purpose of these planning efforts will be to identify current and future land use activities which are causing, or have the potential for causing, adverse impacts on sensitive natural features and natural resources within state and federal conservation lands. Land use activities of concern shall include both public and private actions. Monroe County shall complete Conservation Land Protection Area plans for each of the conservation lands in Monroe County by January 4, 1998. [9J-5.006(3)(c)3]~~

Policy 102.9.3¹⁴

~~Monroe County shall develop organization and management plans to initiate a program for protection, restoration and management of acquired lands. Management objectives for specific management units will be developed in~~

¹² With adoption of goal 105 and the resulting Tier system this Objective designating Conservation Land Protection Areas is no longer needed. The new section will be specific to the preservation in Tier I.

¹³ Revisions to this section sets up the mechanism for development of a managing planning process for parcels acquired to implement Goal 105 and the FKCCS.

¹⁴ The Tier system accomplishes the policy being deleted in the plan.

~~concert with state, federal and municipal land management programs responsible for adjoining lands. Upon adoption of the Comprehensive Plan, Monroe County, in cooperation with appropriate state and/or federal agencies, shall initiate efforts to identify a Conservation Land Protection Area for each conservation area owned by the state and federal governments in the Florida Keys.~~

~~These Conservation Land Protection Areas shall include:~~

- ~~1. private lands located within existing park and conservation land boundaries; and~~
- ~~2. private lands and county-owned lands within a designated buffer adjacent to each conservation land.~~

~~Buffer areas shall be designated on an individual case basis and shall reflect the resource protection concerns and land ownership patterns specific to a particular conservation land.~~

~~Conservation lands for which a Conservation Land Protection Area shall be designated include the following:~~

- ~~1. Fort Jefferson National Monument~~
- ~~2. National Key Deer Refuge~~
- ~~3. Great White Heron National Wildlife Refuge~~
- ~~4. Key West National Wildlife Refuge~~
- ~~5. Crocodile Lake National Wildlife Refuge~~
- ~~6. John Pennkamp Coral Reef State Park~~
- ~~7. Long Key State Recreation Area~~
- ~~8. Bahia Honda State Park~~
- ~~9. Key Largo Hammock State Botanical Site~~
- ~~10. Lignumvitae Key State Botanical Site~~
- ~~11. Windley Key State Geological Site~~
- ~~12. Indian Key State Historic Site~~
- ~~13. Lignumvitae Key State Aquatic Preserve~~
- ~~14. Biscayne Bay Card Sound State Aquatic Preserve~~
- ~~15. San Pedro Archaeologic Aquatic Preserve~~
- ~~16. Coupon Bight State Aquatic Preserve~~
- ~~17. North Key Largo Hammock CARL Project~~
- ~~18. North Layton Hammock CARL Project~~
- ~~19. Curry Hammock State Park~~
- ~~20. Coupon Bight/Key Deer CARL Project~~
- ~~21. Cowpen's Rookery Preserve~~
- ~~22. Save Our Rivers Big Pine Key Project~~
- ~~23. Fort Taylor State Historic Site~~
- ~~24. Shell Key Aquatic Preserve~~

Policy 102.9.4

Management plans shall be reviewed every three years, in cooperation with the appropriate state and/or federal agencies. Revisions to each management plan shall be made as necessary to reflect recent land acquisitions and changing management priorities. [9J-5.006(3)(c)6]]

~~By January 4, 1998, Monroe County, in cooperation with appropriate state and/or federal agencies, shall develop a management plan for each Conservation Land Protection Area. These plans shall identify actions to be taken by Monroe County within the Conservation Land Protection Area in support of the purpose for which each conservation land was acquired. These actions shall include:~~

- ~~1. land management actions for private lands and county-owned lands, particularly as they relate to:
 - a) critical species protection;
 - b) invasive plant removal;
 - c) restoration of disturbed wetland and upland habitat;
 - d)
 - e) pesticide applications;
 - f) prescribed burning; and
 - g) activities which have potential adverse impacts on nearshore water quality;~~
- ~~2. recommendations regarding permitting of shoreline structures, dredging and filling and substrate alteration;~~
- ~~3. actions to maintain and/or improve public access to state and federal conservation lands;~~
- ~~4. strategies for working cooperatively with private landowners in support of conservation; and~~
- ~~5. future intergovernmental coordination with state and/or federal agencies controlling and/or managing the conservation land. [9J-5.006(3)(c)6]~~

Amendment #12

Delete Policy 102.9.5 and 102.9.6

~~Policy 102.9.5~~

~~Management plans shall be reviewed every three years, in cooperation with the appropriate state and/or federal agencies. Revisions to each Conservation Land Protection Area and management plan shall be made as necessary to reflect recent land acquisitions and changing management priorities. [9J-5.006(3)(c)6]]~~

Policy 102.9.6

~~Within eighteen months following acquisition of additional conservation lands by the state and federal governments, the County shall, in cooperation with appropriate state and/or federal agencies, designate a Conservation Lands Protection Area for the newly acquired property and complete a management plan. (These actions shall be required only for acquisitions which are not expansions of existing conservation lands.) [9J-5.006(3)(c)6]~~

Amendment # 13

Amend Policy 103.2.1 and Delete Policy 103.2.2.¹⁵

Policy 103.2.1

~~Upon adoption of the Comprehensive Plan, Monroe County shall implement methods including, but not limited to, designating known habitat of the Schaus' swallowtail butterfly as Tier I, the Permit Allocation and Point System in order to discourage and discouraging developments proposed within hammocks (identified pursuant to Conservation and Coastal Management Policy 207.10.1) used by Schaus' swallowtail butterfly and the lands in the North Key Largo Hammocks CARL Project¹⁶ State Acquisition Area in the permit allocation and point system. (See Policy 205.1.1-101.5.4.) [9J-5.012(3)(c)1; 9J-5.013(2)(c)5 and 6]~~

Policy 103.2.2

~~Upon adoption of the Comprehensive Plan, the existing Habitat Evaluation Index (HEI), found in Sections 9.5-336 through 9.5-342 of the Land Development Regulations (Monroe County BOCC, 1990), and which is adopted by reference in this Comprehensive Plan, shall be revised to give greater consideration to the habitat of species of special status, including the American crocodile, the Key Largo wood rat, the Key Largo cotton mouse, and the Schaus' swallowtail butterfly. The HEI shall be revised to include, at a minimum, the following:~~

- ~~1. — a written methodology for completing the HEI;~~
- ~~2. — requirements for integrating data regarding the historic sightings of rare and endangered species and critical nesting/feeding areas for birds; and~~
- ~~3. — evaluation criteria which will better differentiate high, medium and low quality habitat~~

~~Before adoption, the revisions shall undergo scientific peer review by experts in terrestrial and wildlife ecology. To the extent possible, the reviewers shall include those individuals who participated in development of the existing HEI methodology. (See Policy 205.2.1.) [9J-5.013(2)(c)3]~~

¹⁵ This revision will require that the Schaus' butterfly be protected through identification of known habitat as Tier I.

¹⁶ The CARL program is now the Florida Forever program it is better not to name the funding source.

Amendment # 14

Amend Policy 204.2.1 as follows:¹⁷

~~Upon adoption of the Comprehensive Plan, the County shall utilize the Environmental Standards found in Section 9.5.336 through 9.5.342 of the Land Development Regulations (hereby incorporated by reference) To protect submerged lands and wetlands. Accordingly To protect submerged lands and wetlands the open space ratio shall be 100 percent of the following types of wetlands:~~

1. submerged lands;
2. mangroves;
3. salt ponds;
4. freshwater wetlands;
5. freshwater ponds; and
6. undisturbed saltmarsh and buttonwood wetlands.

Allocated density (dwelling units per acre) shall be assigned to freshwater wetlands and undisturbed salt marsh and buttonwood wetland only for use as transferable development rights away from these habitats. Submerged lands, salt ponds, freshwater ponds and mangroves shall not be assigned any density or intensity. (9J-5.012(3)(c)1 and 2; 9J-5.013(2)(c)6)

Amendment # 15

Amend Objective 205.1 as follows:¹⁸

Objective 205.1

~~By January 4, 1998, Monroe County shall utilize the computerized geographical information system (GIS) and the data, analysis and mapping generated in the Florida Keys Carrying Capacity Study (FKCCS), FMRI, habitat maps and field evaluation to which will provide more current and more refined data on upland vegetation in the Florida Keys identify and map areas of upland vegetation in the Florida Keys and to prepare Tier overlay maps as required in Policy 105.2.2. [9J-5.012(3)(b)1; 9J-5.013(2)(b)3]~~

Policy 205.1.1

The County shall establish the following criteria at a minimum to use when a field a consistent methodology and criteria for mapping and evaluating upland habitats: [9J-5.013(2)(c)9]

1. Criteria for designating lands as Tier I:

- Natural areas including old and new growth upland native

¹⁷ The Sections of the LDRs are being amended and it is inappropriate to site the regulations in the plan.

¹⁸ This revision establishes the criteria and mapping protocol for mapping of upland native vegetation and Tier designation.

vegetated areas, above 4 acres and a buffer of privately owned vacant lots and parcels.

- Vacant land to connect patches and reduce further fragmentation.
- A buffer, up to 500 feet if indicated, between natural areas and development to reduce secondary impacts; canals or roadways, depending on size may form a boundary.
- Lands designated for acquisition by public agencies.
- Known locations of threatened and endangered species.
- Native Area Land Use district and other districts in buffer/restoration area as appropriate.
- Lands with a potential for successful land management - restoration of disturbed habitat, removal of exotics, and connection of patches.
- Areas with minimal existing development.

2. Criteria for designating lands as Tier II:

- Subdivisions less than 50% developed, or portions of subdivisions that are less than 50% developed because of environmental constraints.
- Fragmented, unconnected hammock patches of less than 4 acre, which are isolated from larger natural areas by existing development.
- Developed and undeveloped SR and SS lots with upland native habitat.
- Platted lots in areas where adjoining property owner(s) may purchase the lots with county participation.

Criteria for designating lands as Tier III:

- Isolated upland habitat fragments of less than half an acres
- Substantially developed subdivisions near established commercial areas.
- Primarily IS and URM lots.
- Developed non-residential and mixed used areas.

Policy 205.1.2

The County shall ~~complete~~ ground-truthing of the upland habitats identified in the ADID habitat maps, aerial photography, satellite imagery and the FKCCS, including mapping and preliminary habitat evaluations. Priority shall be given to natural upland communities of four acres or greater identified in the Florida Natural Areas Inventory. [9J-5.013(2)(c)9]

Policy 205.1.3

The County shall enter ground-truthed upland native vegetated area location and evaluation data into the GIS and use the GIS to analyze the data and prepare Tier Zoning Overlay Maps for adoption as required in Policy 105.2.2. [9J-5.013(2)(c)9]

Policy 205.1.4

The GIS will be used to evaluate the lands designated in the different Tiers, determining vacant, platting and ownership status, zoning, and appraised values for acquisition planning. Vegetation data shall be plotted on the GIS at a scale of 1 inch equals 200 feet. [9J-5.013(2)(c)9]

Policy 205.1.5

Land management activities, land acquired ~~Habitat evaluation index~~ and permit data shall be incorporated into the GIS annually. [9J-5.013(2)(c)9]

Policy 205.1.6

The County shall coordinate its upland native vegetation mapping and evaluation efforts with those of federal and state agencies and private researchers so as to avoid duplication of effort. These agencies shall include, at a minimum, the EPA, ACOE, ~~DER, DNR, FDEP, FDCA,~~ SFWMD, FGFWFC, and nongovernmental environmental groups ~~the National Audubon Society (Research Department).~~ [9J-5.013(2)(c)9]

Amendment # 16

Amend Objective 205.2 as follows:¹⁹

Objective 205.2

To implement Goal 105 of this Plan and the recommendations in the Florida Keys Carrying Capacity Study (FKCCS), Monroe County shall adopt revisions to the Land Development Regulations which further protect and provide for restoration of the habitat values of upland native vegetated communities, including hardwood hammocks and pinelands. [9J-5.012(3)(b)1; 9J-5.013(2)(b)3]

Policy 205.2.1

Monroe County shall designate the boundaries in the zoning overlay tier system based on the criteria in 205.1.

~~Upon adoption of the Comprehensive Plan, the County shall utilize the Habitat Evaluation Index (HEI), found in Section 9.5 336 through 9.5 342 of the Land Development Regulations, hereby incorporated by reference, to evaluate and protect sensitive habitats of the Florida Keys.~~

~~Upon adoption of the Comprehensive Plan, Monroe County shall complete revisions to the HEI which shall include, at a minimum, the following:~~

- ~~1. a written methodology for completing the HEI;~~

¹⁹ This revisions provides direction for the LDR amendments implementing the Tier system and removing the requirements for an HEI.

2. ~~requirements for integrating data regarding the historic sightings of rare and endangered species and critical nesting/feeding areas for birds; and~~
3. ~~evaluation criteria which will better differentiate high, medium and low quality habitat.~~

~~Before adoption, the revisions shall undergo scientific peer review by experts in terrestrial and wildlife ecology. To the extent possible, the reviewers shall include those individuals who participated in development of the existing HEI methodology. The comprehensive plan shall be amended to include the HEI revision.~~

Policy 205.2.2

~~Upon adoption of the Comprehensive Plan, Monroe County shall implement the Permit Allocation and Point System. Monroe County shall discourage assign a negative point rating to developments in Tier I which disturb to protect areas of native upland vegetation. Sites having high quality native upland vegetation s shall receive a greater negative point rating than sites having medium and low quality native upland vegetation. Habitat value shall be determined through application of measures as specified in the HEI. (See Policy 101.5.4). [9J-5.012(3)(c)1, 2 and 3; 9J-5.014(2)(c)6]~~

Policy 205.2.6²⁰

~~The permitted clearing of native upland vegetation communities shall be defined by habitat and the location of the property in the Land Use District (zoning) Overlay Tier Maps, which exhibit functional integrity and viability shall meet or exceed their existing percentages, as follows: Clearing of upland native vegetation communities in the Tiers I, II, and III shall be limited for the portion of the property containing upland native vegetation in the following percentages:~~

Tier	Permitted Clearing
Tier I	10%
Tier II	40%
Tier III	60%

~~1. high hammock~~

high quality	0.80
moderate quality	0.60
low quality	0.40
disturbed	0.40

~~2. low hammock~~

high quality	0.80
moderate quality	0.60

²⁰ Clearing and open space requirements are now based on the Tier designation, an HEI will no longer be used because the mapping has been done up front of all quality hammock areas. Clearing will be reduced over-all.

	low quality	0.40
	disturbed	0.40
3.	palm hammock	0.90
4.	cactus hammock	0.90
5.	pinelands	
	high quality	0.80
	low quality	0.60
	disturbed	0.60
6.	scarified	0.20

The definition for open space shall be that currently contained in Section 9.5-4(O-3) of the F.S. 380.05 compliant Land Development Regulations, hereby incorporated by reference.

Policy 205.2.7

Clearing of native vegetation shall be limited to the percentage allowed in Policy 205.2.6. and shall be called the immediate development area. ²¹For applications that receive points for lot aggregation under the Permit Allocation System for residential development, clearing of upland native vegetation shall be limited to the clearing permitted in 205.2.6 or 5,000 square feet, whichever is less. The immediate development area shall include the area of approved clearing shown on the approved site plan. The immediate development area shall be fenced throughout the duration of construction. During construction, there shall be no disturbances of the ground surface and vegetation within areas of native upland vegetation not approved for clearing. required open space areas. [9J-5.013(2)(c)3]

Policy 205.2.12²²

Monroe County shall apply all environmental regulations including use as a baseline to determine the clearing that may be permitted on a site according to the use the legal conditions of land existing as of February 28, 1986 and as depicted on the "December 1985 Habitat Classification Aerial Photographs," hereby incorporated by reference as a base line for the type and extent of habitat on a parcel. The 1985 maps shall be supplemented by recent aerial photography and existing site analysis to determine any increases in the amount of upland native vegetated areas. include a disclaimer statement to advise the public that the maps are generalized and that habitat designations are subject to verification through field inspections.

²¹ This change implements the changes in the proposed rule 28-20.110.

²² Changing to the existing conditions on a property rather than the conditions in existence in 1985 will increase the protection of habitat areas by including "new growth" which is not currently protected or analyzed in the HEI.

Policy 205.2.14

Monroe County shall require, in the Land Development Regulations an Existing Conditions Report including a vegetation survey for any development that may disturb native upland vegetation. At a minimum the report shall include an analysis of the potential impacts of the proposed development on native upland habitats, a description of the measures designed to reduce identified adverse impacts including clustering and a transplantation plan..

Amendment # 17

Amend Objective 205.5 as follows:²³

Objective 205.5

Monroe County, together with private, state, and federal agencies, shall establish a program for acquiring ~~undisturbed~~²⁴ native upland habitat to implement Goal 105 and the recommendations in the FKCCS. (See Future Land Use Objective 102.4 and related policies). [9J-5.012(3)(b)4; 9J-5.013(2)(c)6]

Policy 205.5.1

The Monroe County ~~Department of Environmental Resources~~ Division of Growth Management shall work cooperatively with the Monroe County Land Authority in developing and administering the acquisition program. Acquisition shall be undertaken ~~as part of to implement~~ the Monroe County Land Acquisition Master Plan (Objective 102.4) Natural Heritage and Park Program. [9J-5.012(3)(c)2; 9J-5.013(2)(c)6]

Policy 205.5.2

A list of priority native upland habitat acquisition sites in Tier I shall be drafted and ~~updated reviewed~~ annually. This list shall be developed by Monroe County in consultation with representatives of DNR, FDEP, FDCA, USFWS, SFWMD, FWC the National Audubon Society Research Department, The Nature Conservancy, and others as appropriate. ~~Priority native upland vegetation acquisition sites shall include those which:~~

- ~~1. are determined to be high quality habitat and are designated in the Tier-I overlay district (through the HEI);~~
- ~~2. include plant species of special status endemic species;~~
- ~~3. are documented habitat for wildlife species of special status;~~
- ~~4. are may be located within Improved Subdivisions; and/or~~

²³ This revision establishes the acquisition program required to implement Goal 105.

²⁴ Regrowth areas are now maturing and should also be protected.

- ~~5. are documented as significant coastal upland natural communities by the Florida Natural Areas Inventory. [9J-5.012(3)(e)2; 9J-5.013(2)(e)6]~~

Amendment # 18²⁵

Delete Policy 207.1.2, Policy 207.10.5 and 207.12.6:

Policy 207.1.2

~~Upon adoption of the Comprehensive Plan, the existing Habitat Evaluation Index (HEI), found in Sections 9.5 336 through 9.5 342 of the Land Development Regulations (Monroe County BOCC, 1990), and which is adopted by reference in this Comprehensive Plan, shall be revised to give greater consideration to the habitat of species of special status and critical nesting/feeding areas for birds. The HEI shall be revised to include, at a minimum, the following:~~

- ~~1. a written methodology for completing the HEI;~~
- ~~2. requirements for integrating data regarding the historic sightings of rare and endangered species and critical nesting/feeding areas for birds; and~~
- ~~3. evaluation criteria which will better differentiate high, medium and low quality habitat.~~

~~Before adoption, the revisions shall undergo scientific peer review by experts in terrestrial and wildlife ecology. To the extent possible, the reviewers shall include those~~

Policy 207.10.5

~~Upon adoption of the Comprehensive Plan, the existing Habitat Evaluation Index (HEI), found in Section 9.5 336 through 9.5 342 of the Land Development Regulations (Monroe County BOCC, 1990), and which is adopted by reference in this Comprehensive Plan, shall be revised to better protect high quality upland vegetative communities and threatened and endangered species. The HEI shall be revised to include, at a minimum, the following:~~

- ~~1. a written methodology for completing the HEI;~~
- ~~2. requirements for integrating data regarding the historic sightings of rare and endangered species and critical nesting/feeding areas for birds; and~~
- ~~3. evaluation criteria which will better differentiate high, medium and low quality habitat~~

~~Before adoption, the revisions shall undergo scientific peer review by experts in terrestrial and wildlife ecology. To the extent possible, the reviewers shall include~~

²⁵ The deletions are because the HEI will no longer be used to protect upland vegetation (the changes to the HEI were completed in 1998) the Tiers will provide the needed protection

~~those individuals who participated in development of the existing HEI methodology. (See Policy 205.2.1.) [9J 5.013(2)(c)3]~~

Policy 207.12.6

~~Upon completion of the Comprehensive Plan, the existing Habitat Evaluation Index (HEI), found in Section 9.5 336 through 9.5 342 of the Land Development Regulations (Monroe County BOCC, 1990), and which is adopted by reference in this Comprehensive Plan, shall be revised to better protect high quality upland vegetative communities and threatened and endangered species. The HEI shall be revised to include, at a minimum, the following:~~

- ~~1. a written methodology for completing the HEI;~~
- ~~2. requirements for integrating data regarding the historic sightings of rare and endangered species and critical nesting/feeding areas for birds; and~~
- ~~3. evaluation criteria which will better differentiate high, medium and low quality habitat.~~

~~Before adoption, the revisions shall undergo scientific peer review by experts in terrestrial and wildlife ecology. To the extent possible, the reviewers shall include those individuals who participated in development of the existing HEI methodology. (See Policy 205.2.1.) [9J 5.013(2)(c)3]~~

Amendment # 19

Delete Objective 1201.13:²⁶

Objective 1201.13

~~By January 4, 1998, Monroe County shall establish and implement the Monroe County Natural Heritage and Park Program. The purpose of this program shall be to acquire lands and open space in the public interest for conservation and recreation purposes. (See Future Land Use Objective 102.4 and related policies.) [9J 5.014(3)(b)1 and 2]~~

²⁶ The Natural Heritage and Park Program has been removed from the Comprehensive Plan.

PROPOSED AMENDMENTS TO THE LDRS TO
REVISE DIVISION 8: ENVIRONMENTAL
STANDADARDS

DRAFT
OCTOBER 25, 2004

**PROPOSED AMENDMENTS TO THE LDRS
TO REVISE DIVISION 8: ENVIRONMENTAL STANDARDS**

AMENDMENT # 1

Delete Sections 9.5-336 Existing conditions map, 9.5-337 Habitat analysis required, 9.5-338 Waiver of habitat analysis, 9.5-339 Habitat type analysis, 9.5-339.1 Habitat analysis objective, 9.5-339.2 Automatic high quality forest classification, 9.5-339.3 Habitat analysis definitions and approach, 9.5-340 Habitat analysis for high hammocks, 9.5-341 Habitat analysis for low hammocks, 9.5-342 Habitat analysis for palm hammocks, and 9.5-343 Habitat analysis for pinelands.¹

AMENDMENT # 2

Add new Section 9.5-336 as follows:²

Sec. 9.5-336. Existing conditions report.

As part of an application for approval on lands containing upland native vegetation communities the applicant shall prepare and submit an existing conditions report including a vegetative survey that identifies the distribution and quality of native habitat within the parcel or lot proposed to be developed in accordance with the standards of this division. The existing conditions report will be prepared by a biologist qualified under sec. 9.5-28, in a form approved by the director of planning and contain, at a minimum, the following:

(a) Cover Page: The cover page shall contain the following:

(1) Legal description of parcel.

(2) Property owners name and address.

(3) Date of report and site visits.

(4) Consultant's name, agency and contact information.

(5) Consultant's signature.

(b) Summary: A general description of site including discussion of habitat type, important features and presence and location of any disturbed areas.

¹ This revision removes the requirements for performing an HEI, the Tier system has identified the quality upland native vegetative resources and clearing will be based on the Tier designation.

² This revision requires an existing conditions report for all development with upland habitat, to include a vegetation survey.

(c) Species List: A list of species found in the survey provided in a matrix of the following five columns:

(1) Column 1 - removed - estimates the number of that plant will be removed.

(2) Column 2 - retained - indicates that one or more of that plant will remain.

(3) Column 3 - common plant name.

(4) Column 4 - scientific name.

(5) Column 5 - status - threatened, endangered, or regionally important and other native species four inches or greater in diameter at four feet in height and exotic or pest plant status.

(d) Site Plan: A site plan at a scale of 1 (1) inch equals twenty (20) feet or greater showing the location of all native species that are threatened, endangered, regionally important and areas of disturbance and exotic species.

AMENDMENT # 3

Add new Section 9.5-337 as follows:³

Section 9.5-337. Administration and compliance.

Before a certificate of occupancy or final inspection of approval may be issued for any structure, portion, or phase of a project subject to this division a grant of conservation easement running in favor of Monroe County shall be approved by the growth management director and the county attorney and filed in the Land Records of Monroe County. The Conservation Easement shall state the amount of required upland native vegetation open space and prohibiting activities within that open space, including removal, trimming or pruning of native vegetation; acts detrimental to wildlife or wildlife habitat preservation; excavation, dredging, removal or manipulation of the substrate; activities detrimental to drainage, flood control, or water or soil conservation; dumping or placing soil, trash, or other materials; and any other restrictions as may be stated on the Conservation Easement.

AMENDMENT #4

Add new Section 9.5-338 as follows:

Section 9.5-338 Wetland open space requirements

No development activities, except as provided for in this division, are permitted in mangroves, freshwater wetlands and in undisturbed saltmarsh and buttonwood wetlands, the open space requirement is one hundred (100) percent.

³ This revision clarifies that the conditions in existence when an application is approved shall only be modified in conformance to an approved development plan and that the vegetation of the site must be maintained into perpetuity.

AMENDMENT # 5

Amend Section 9.5-347 (b)(c) and (d) and create a new (e) as follows:

Sec. 9.5-347. Clearing permitted.⁴

(b) Percentage of Clearing: ~~No land shall be developed, used or occupied such that the amount of open space on the parcel proposed for development is less than the open space ratios listed below for each habitat. Clearing of upland native vegetation communities in the Tiers I, II, and III shall be limited and open space requirements for the portion of the property containing upland native vegetation increased in the following percentages:~~

TIER	Permitted Clearing
Tier I	10%
Tier II	40%
Tier III	60%

TABLE INSET:

Land Type of Existing Conditions Map	Open Space Ratio
Open Waters	1.00
Mangrove and freshwater wetlands ¹⁵	1.00
Saltmarsh and buttonwood wetlands ¹⁶	1.00
High hammock (high quality)	0.80
High hammock (moderate quality)	0.60
High hammock (low quality)	0.40
Low hammock (high quality)	0.80
Low hammock (moderate quality)	0.60
Low hammock (low quality)	0.40
Palm hammock	0.90
Cactus hammock	0.90
Pinelands (high quality)	0.80
Pinelands (low quality)	0.60
Beach berm	0.90
Disturbed	0.20
Disturbed with hammock ¹⁷	0.40
Disturbed with saltmarsh and buttonwood ¹⁸	See § 9.5-348(d)
Disturbed beach/berm	0.20
Disturbed with exotics	0.20
Disturbed with slash pines ¹⁹	0.60
Off-shore islands	0.95

(c) ~~No structures shall be permitted in the required open space except for the following:~~

⁴ This revision reflects that clearing will be controlled by the Tier designation based on the existing conditions rather than the HEI that was based on the 1986 habitat maps.

- ~~(1) Up to fifty (50) percent of the total area of driveways, parking areas, passive recreational uses, and active recreational uses provided that:~~
 - ~~a. They do not cumulatively occupy more than ten (10) percent of the total required open space area;~~
 - ~~b. They are constructed of permeable materials;~~
 - ~~c. They do not require the removal of native vegetation; and~~
 - ~~d. They are located within a disturbed upland habitat.~~
- ~~(2) Structures buried underground including but not limited to septic tank drain fields, utility lines, and underground tanks, provided that:~~
 - ~~a. They are covered with permeable materials;~~
 - ~~b. They do not require the removal of native vegetation; and~~
 - ~~c. They are located within a disturbed upland habitat.~~

(c) Site Baseline Conditions: The legal conditions of land existing as of February 28, 1986 and as depicted on the "December 1985 Habitat Classification Aerial Photographs," shall be used as a baseline to determine the clearing that may be permitted on a site. The 1985 maps shall be supplemented by recent aerial photography and existing site analysis to determine any increases in the amount of upland native vegetated areas. Upland native vegetated areas cleared between 1986 and time of permit application shall be considered to still include upland native vegetation for purposes of determining the amount of open space and clearing permitted.

~~(d) Required open space shall be maintained pursuant to the most restrictive design criteria listed for each habitat which applies to the development as listed in this division. Permittable clearing within each habitat type shall be assessed on a cumulative basis such that any additional or proposed clearing shall be determined by accounting for all previous clearing that occurred on the site since February 28, 1986. Major development sites approved prior to September 15, 1986 shall not be permitted to clear additional habitat beyond the clearing originally approved without first obtaining approval under the terms of this chapter.~~

~~(Ord. No. 007-2002, § 1(Exh. A))~~

~~14 Adopted by State Rule 28-20.025(13) on Jan. 04, 1996 and further amended by Staff.~~
~~15 Implements Policies 102.1.1, 204.2.1, and 207.13.1 and was already adopted pursuant to rule 28-20.025~~

~~16 Implements Policies 207.1.4 and 207.12.5~~

~~17 Implements Policy 205.2.6~~

~~18 Development in disturbed wetlands determined by KEYWEP evaluation~~

~~19 Implements Policy 205.2.6~~

(d) *Ocean Reef Clearing:* For the purpose of this ordinance, upland native vegetated areas in Ocean Reef Club, shall be considered Tier II and clearing shall be limited to forty (40) percent of the upland native vegetated areas.

(e) *Lot Aggregation and Clearing:* For ROGO application that receive points for lot aggregation under Section 9.5-122.3 (a) (3), permitted clearing of vegetation shall be limited to the percentage of the property indicated in paragraph (b) above or five-thousand (5,000) square feet, whichever is less.